



OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

March 24, 2017

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa
Hagåtña, Guam 96910

The Honorable Michael F.Q. San Nicolas
Chairperson, Committee on Rules
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa
Hagåtña, Guam 96910

RE: Amended Committee Report on Resolution No. 51-34 (LS)

Dear Speaker Cruz:

Transmitted herewith is the **Amended Committee Report on Resolution No. 51-34 (LS) - Relative to supporting that the Government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the native inhabitants of Guam**, which will also be delivered to the Committee on Rules on March 24, 2017. The original Committee Report was delivered to COR on March 17, 2017 and is also attached. Resolution No. 51-34 (LS) was adopted by the Legislature on March 17, 2017. Voting record is attached.

The Amended Committee Report includes the following:

- Copy of COR Referral of Res No. 51-34(LS)
- Copy of COR Pre-Referral Checklist on Res No. 51-34(LS)
- Copy of Res No. 51-34 (LS)
- Notices of Public Hearing
- Public Hearing Sign-in Sheet
- Copy of the Public Hearing Agenda
- Copies of Submitted Testimony & Supporting Documents
- Related News Reports
- Committee Report Digest including transcripts of all oral testimony

Please also process this as a formal Messages and Communication, transmitting the transcript of the public hearing held on March 17, 2017, and written testimonies that were submitted as of March 22, 2017.

Si Yu'os ma'åse',


Therese M. Terlaje

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 | F: (671) 472-3589 | Email: senatorterlajeguam@gmail.com
www.senatorterlaje.com

**AMENDED
COMMITTEE REPORT
ON**

**Resolution No. 51-34 (LS)
Introduced by Therese M. Terlaje**

“Relative to supporting that the government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the native inhabitants of Guam”



COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina Trentai Kuattro na Liheslaturan Guahan • 34th Guam Legislature



MEMO

To: Rennae Meno
Clerk of the Legislature

Attorney Julian Aguon
Legislative Legal Counsel

From: Senator Michael F.Q. San Nicolas
Chairman of the Committee on Rules

Date: March 10, 2017

Re: Referral of Resolution No. 51-34 (LS)

Buenas yan Háfa adai.

As per my authority as Chairman of the Committee on Rules, I am forwarding the referral of **Resolution No. 51-34 (LS)**.

Please ensure that the subject resolution is referred, in my name, to **Vice Speaker Therese M. Terlaje, author of Resolution No. 51-34 (LS)**.

If you have any questions or concerns, please feel free to contact Christian Valencia, Committee on Rules Director, at 472-6453.

Thank you for your attention to this important matter.

Respectfully,


Senator Michael F.Q. San Nicolas
Chairman of the Committee on Rules

I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUAHAN

RESOLUTION STATUS

Resolution No.	Sponsor	Title	Date Intro	Date of Presentation	Date Adopted	Date Referred	Referred to	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
51-34 (LS)	Therese M. Terlaje	RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.	03/09/17 4:35 p.m.				The Author			



FIRST Notice of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: phnotice@guamlegislature.org
Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>
Bcc: neil@postguam.com, Sabrina Salas <sabrina@kuam.com>, parroyo@k57.com

Thu, Mar 9, 2017 at 7:15 PM

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje, along with Res Nos. 51-34 and 52-34 (LS).

Should you have any questions, please contact our office.

Thank you,

Nicole Santos

March 9, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Friday, March 17, 2017, beginning at 9:00 AM in / *Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan*'s live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

3 attachments

 **PH_First Notice_031717.pdf**
165K

 **Resolution No. 51-34.pdf**
97K

 **Resolution No. 52-34.pdf**
137K



OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuáttro na Liheslaturan Guáhan
34th Guam Legislature

March 9, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje TW
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

SECOND Notice for Public Hearing - Tuesday, March 17, 2017, 9:00 AM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Mar 14, 2017 at 1:33 PM

To: phnotice@guamlegislature.org

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje.

Should you have any questions, please contact our office.

Thank you,

Nicole Santos

March 14, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

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PH_Second Notice_031717.pdf
165K



**OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice**

*I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature*

March 14, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

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www.senatorterlaje.com



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

CORRECTION: SECOND Notice for Public Hearing - Friday, March 17, 2017, 9:00 AM

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: phnotice@guamlegislature.org
Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Mar 14, 2017 at 2:18 PM

Hafa adai to All,

This e-mail is sent as a correction to the above subject line, to read: "SECOND Notice for Public Hearing - Friday, March 17, 2017, 9:00 a.m."

Sinceremente yan *Si Yu'os Ma'åse'*
C. B. Kintol
Policy Analyst

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

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On Tue, Mar 14, 2017 at 1:33 PM, Senator Therese Terlaje <senatorterlajeguam@gmail.com> wrote:

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje.

Should you have any questions, please contact our office.

Thank you,
Nicole Santos

March 14, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

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The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

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We look forward to your attendance and participation.

Si Yu'os Ma'åse!

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The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice

I Mina'trentai Kuáttro na Liheslaturan Guåhan
34th Guam Legislature

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ON THE FRIDGE

Send your submissions for "On the Fridge" to life@guampdn.com. Include: who, what, where, when and how much — as well as a point of contact for more information.

NEW LISTINGS

Crime victims' fair: National Crime Victims' Rights Week Fair from 10 a.m. to 2 p.m. April 8 at the Ricardo J. Bordallo Governor's Complex (Adelup Lawn). The public is invited to attend this informational fair meant to commemorate and honor victims of all crime and their service providers. This year's theme is "Strength, Resilience. Justice." Service providers include Healing Hearts, Erica's House, Victim Advocates Reaching Out, GPDs Domestic Assault and Response Team, the Guam Coalition, and many others.

Volunteers for coral reef: The Guam Community Coral Reef Monitoring Program will host training sessions for residents who want to become members and help monitor Guam's coral reefs. Interested residents must pre-register and complete Class Training and In-Water Training. Class Training will be from 10 a.m. to noon March 18, 22, and 29 at the NOAA Fisheries Office in Tiyan. Participants need to attend one Classroom Training. In-Water Training will follow from 9 to 11 a.m. April 1 at Tepungan Beach Park in Piti. Combo training to satisfy both Class and In-Water training will be from 2:30 to 5:30 p.m. April 8 next to the Merizo Basketball Court. Participants will learn how to collect data on corals and other marine species on Guam's reef flats using scientific survey methods. Members can participate in monitoring surveys

inspirations, creative ideas and expert advice under one roof. From ceremony to reception, over thirty exhibitors to help you plan your big day. Check out the seminars from budgeting to planning to looking good, these experts share their tips to help you save time, money and stress. Engaged couples enter for your chance to win a roundtrip for two to Manila in the Grand Giveaway presented by Cebu Pacific. Entry forms available only at the show. Must be present to win. Winners of the Bridal Boot Camp season three and the Picture Perfect Photo Contest will also be announced. For details, call 479-0501.

Wave against marijuana: Wave against recreational marijuana from 4:30 to 5:30 p.m. March 18 at BOG/FHP clinic in Tamuning intersection.

TODAY

Public hearing: The Guam Legislature's Committee on Culture and Justice will convene a public hearing at 9 a.m. March 17 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, 96910) to discuss Resolution No. 51-34 (LS) - related to supporting an appeal in Davis V. Guam Election Commission case and Resolution No. 52-34 (LS) related to supporting the Attorney General, the Chamorro Land Trust Commission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is invited to attend and provide comments. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or senatorterlajeguam@gmail.com.

Guam High School and from any cast member for \$10 each. To reserve your tickets, call 344-7362. For more information, email romina.sotomil@pac.dea.edu.

Island Fair vendors sought: Guam Visitors Bureau (GVB) seeks vendors for the 29th Guam Micronesia Island Fair, to be held on May 3-7 at Paseo de Susana in Hagåtña. The five-day family-friendly event will feature cultural entertainment, music, arts and crafts, food, pop-up shops, interactive theme parks, and community organizations. Admission to this event is open to the public and free of

charge. Vendor applications are available at www.visitorsbureau.com or GVB office in Tumac. Deadline to submit is March 17. Those interested can also call GVB at 652-78.

Women's Art e Soroptimist International Guam, Guam Court Women's Clubs, Guam Council on the Arts & Humanities Agency, Department of Labor Affairs and Inter for the Arts will bring the 12th Annual Women's Art Exhibit in honor of Women's History Month regular business hours day through Sunday March 17 to 25 at the

In Loving Memory

Frank Joseph

also known as "Sonny"
December 1, 1954 - March 17, 2017
Of Maina formally of Tamuning with Heavenly-Father at the

He will be greeted at the gates of heaven by his wife and Francisco Anderson Matanane; Godparents Maria Jill Anderson Matanane; Parents-In-Law T. Flores; Granddaughter; Celestina Matanane; Brother-in-law; Richard T. Saville of West Virginia

His love and memories will forever remain in our hearts.
Wife: Bertilla Flores Matanane (aka: Berthy/Bertie)
His Sons & Spouse: Frank Christopher Matanane; Mark Steven Matanane, wife Tracy California; Frank James Matanane & Christine and Christopher J. Bost of Glenn Burnie; Daughter: Shalina Matanane & Eric Borja; Francesca Maria Matanane of Nashville, Tennessee; Sanza Bost Nothdurft of Baltimore, Maryland and Phyllis Bost Portillo and husband Francisco Portillo of Glen Burnie

Brothers and Sisters: Sara Matanane Achivida & Joseph Achivida; John Matanane & Therese D. Matanane; Mona Matanane Duenas & Gonzallo F. Duenas Jr.; Eddie T. Matanane & Rita D. Matanane of Calif.; Peter A. Matanane, Martin J. Matanane & Giana B. Matanane of Calif..

Brother and Sisters-In-Laws: Mary Lou F. Saville of Inman, SC; Sylvia M. Cruz of Maina; Vincent K. Flores & Sarah Eliason

Thursday, March 16, 2017
Pacific Daily News
guampdn.com

ON THE FRIDGE

Send your submissions for "On the Fridge" to life@guampdn.com. Include: who, what, where, when and how much — as well as a point of contact for more information.

TOMORROW

Public hearing: The Guam Legislature's Committee on Culture and Justice will convene a public hearing at 9 a.m. March 17 in *I Liheslaturan Gudhan's* Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Ha-

gátña, 96910) to discuss **Resolution No. 51-34 (LS)** - related to supporting an appeal in Davis V. Guam Election Commission case and **Resolution No. 52-34 (LS)** related to supporting the Attorney General, the Chamorro Land Trust Commission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is invited to attend and provide comments. For more information or special accommodations, contact the Office of Vice

See FRIDGE, Page 26

BELOW CARDS ON SALE NOW...

THIS THURSDAY
A BIG \$4.4
A standard card costs \$2
Play Extra Powerballs \$2
MORE CHANCES TO WIN

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dents will be accepted. For more details contact any of the following; Mila Moguel at 649-4489, Gloria Baguion at 686-5871 or Ciony Vi-ray at 637-1538.

MARCH

Public hearing: The Guam Legislature's Committee on Culture and Justice will convene a public hearing at 9 a.m. March 17 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, 96910) to discuss Resolution No. 51-34 (LS) - related to supporting an appeal in Davis V. Guam Election

Commission case and Resolution No. 52-34 (LS) related to supporting the Attorney General, the Chamorro Land Trust Commission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is invited to attend and provide comments. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or senatorterlaje-guam@gmail.com.

Bye Bye Birdie musical:

Guam High School is proud to present our local production of Bye Bye Birdie. Bye Bye Birdie is a loving satire of the 1960s, small-town America, teenagers, and rock and roll. Featuring a tuneful high-energy score and a hilarious script, Bye Bye Birdie continues to thrill a wide variety of audiences. Show times are 6 p.m. March 17, noon and 6 p.m. March 18. Open to the public (with a valid picture ID). Tickets are available at Guam High School and from any cast member for \$10 each. To reserve your tickets, call 344-7362. For more information, email ro-

mina.sotomil@pac.doea.edu.

Father Duenas Annual Songfest: The Father Duenas Memorial School Class of 2019 presents "Sounds of the Cinema" 5 p.m. March 18 at the Calvo Fieldhouse at the University of Guam. Show begins at 7 p.m. Performances will feature songs that have been used in films. Tickets are \$20 and tables are \$400. Concessions will be sold. For more information call the office at 734-2261 or email Mr. Brian Galang at bgalang@fatherduenas.com.

PANGASINANSE BINGO
 ASSOCIATION OF THE PANGASINANSE ON GUAM (FOPOG)
 Guam • Tel: 649-1931 DOORS OPEN: 4:00 PM • GAME START: 7:30 PM

THURSDAY, MARCH 15, 2017

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00	\$5,000
AWAY	7 REGULAR GAMES
00	\$3,000

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ON THE FRIDGE

Send your submissions for "On the Fridge" to life@guampdn.com. Include: who, what, where, when and how much — as well as a point of contact for more information.

NEW LISTINGS

Diabetes session: The Guam Diabetes Association will be hosting its free monthly Diabetes session from 5:30 to 7 p.m. March 14 at the Mangilao Senior Center. The guest speaker is Rita Oliva from Immunization Program/ DPHSS. The topic is "Immunization and Diabetes." Healthy refreshments will be served. Open to the public. For more info, call 632-1971.

Public hearing: The Guam Legislature's Committee on Culture and Justice will convene a public hearing at 9 a.m. March 17 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, 96910) to discuss Resolution No. 51-34 (LS) related to supporting an appeal in Davis V. Guam Election Commission case and Resolution No. 52-34 (LS) related to supporting the Attorney General, the Chamorro Land Trust Commission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is invited to attend and provide comments. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or senatorterlaje-guam@gmail.com.

LIFE & STYL

Plan ahead for the perfect bridal do

SUE LEE
SILEE@GUAMPDN.COM

When it comes to getting the perfect hairstyle for your big day, planning ahead and trusting your hairdresser will diminish some of those wedding jitters, says Saphire Riboni, cosmetologist at Hair Town, Guam Premier Outlets, Tamuning.

It'll be a disaster if you walk in the day of and try to figure it all out, Riboni says. You should get to know your stylist so you're on the same page. Schedule a trial three to four months ahead of your wedding date. Bring samples of what you like so he or she can get an idea of what you want. Also bring along your veil and any other hair accessories you plan on wearing.

"I look at their dress, their face, how they look, how long their hair is ... but sometimes you kind of have to ignore those things too. I'm good at gauging that. I can say it looks good but if the bride says she's not comfortable, I try to compensate, even if the style doesn't

chance to observe work.

"I wasn't a picky when I gave her free was beyond happy. them (bridesmaids) h do that complimentec Best decision I made r tion of my wedding,"

So on that note, Rib ommends getting at l sultation beforehand mind that not all st comfortable doing a

See STYLIST, Page 15



Daughter's efforts are never good enough for her family



DEAR ABBY
JEANNE
PHILLIPS

DEAR ABBY: I'm a 15-year-old girl, and I'm struggling with abuse. I'm mentally and physically abused by my family constantly, yet they make me out to be the abusive one. I could do amazing on a test, and they yell at me for something that happened on the last one. They're always pushing me so hard to do better that it's making me do worse.

How can I make my family see that I'm not them, and I can do good if they just give me the chance to learn from my mistakes? —STRUGGLING IN WISCONSIN

DEAR STRUGGLING: Parents always want their children to per-

form to their level of capacity. Because you say you are being abused physically and emotionally for your inability to live up to your family's expectations, discuss what's going on with a counselor at your school. It's possible there needs to be an intervention by someone they will listen to. Please don't wait to do it.

DEAR ABBY: My husband of three years has visits with his son every Tuesday and Thursday evening. My mother-in-law picks up her grandson, takes him to her home and makes dinner for the three of them. I work 10-hour days Monday through Friday and am not able to attend these dinners.

My question is, isn't it proper etiquette that my mother-in-law should send a plate of food home for me with my husband? She never has,

and I think this is rude and inconsiderate of her. What is your opinion? — HUNGRY IN EL PASO

DEAR HUNGRY: Although brief, your letter speaks volumes about your relationship with your mother-in-law, which appears could be better. No rule of etiquette dictates that she is obligated to send a plate of her food home with her son for you. Perhaps if your relationship with her was warmer, or your husband was thoughtful enough to suggest it, she would. However, since you asked, my opinion is that rather than complain, you should pick up some take-out on your way home from work.

DEAR ABBY: I'm a 22-year-old college student on the verge of graduating this May. I've been dating my boyfriend for more than five years, and I am extremely close with his

family, especially his sister "Claudia" and her three children (ages 6, 3 and 6 months).

My parents are throwing me a graduation party at their home, and they don't want any guests under the age of 10. How do I tell Claudia — a dear friend — that her children won't be invited without upsetting her?

How do I tell her? Help! —SOON-TO-BE GRADUATE

DEAR SOON-TO-BE GRADUATE: You are not hosting the party; your parents are. As the hosts, it is their privilege to decide whom to invite — or not. When Claudia is invited, your parents should explain that they prefer children under the age of 10 not be present.

Contact Dear Abby at www.DearAbby.com.

GOVERNMENT MEETINGS

New Listings

» The Guam Legislature's Committee on Culture and Justice will convene a Public Hearing at 9 a.m.

March 17 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, 96910) to dis-

cuss Resolution No. 51-34 (LS) - related to supporting an appeal in Davis V. Guam Election Commission case and Resolution No. 52-34 (LS) related to supporting the Attorney General, the Chamorro Land Trust Com-

mission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is in-

mitted to attend and provide comments. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or email

See MEETINGS, Page 22

Pass! Haha? You're in the Local section of the Post - the news that concerns you the most. Do you have a news tip? Feel free to email editor@postguam.com.

GUAM HOUSING AND URBAN RENEWAL AUTHORITY

Board of Commissioners Meeting
12:00 P.M., Friday, March 17, 2017
GHRUA Main Office
1st floor Conference Room
117 Blian Veniadi Avenue, Saipan

Agenda

- I. ROLL CALL
- II. APPROVAL OF PREVIOUS BOARD MINUTES - February 24, 2017
- III. CORRESPONDENCE AND REPORTS
- IV. OLD BUSINESS
- V. NEW BUSINESS
- VI. GENERAL DISCUSSION
- VII. ANNOUNCEMENT
- VIII. ADJOURNMENT

For special accommodations, contact Ms. Kirby Tahapo

Tele: 667-476-3822 or TTY: 667-3701



I Mina 'trental Kraitro na Liheslaturan Guahan 34th Guam Legislature

OFFICE OF THE VICE SPEAKER
THERESA M. TERLJE
COMMITTEE ON CULTURE AND JUSTICE

Public Hearing
Friday - March 17, 2017

9:00 a.m.

Guam Legislature Public Hearing Room,
Guam Congress Building, Hagåtña

AGENDA

Resolution No. 51-34 (L.S.) - Theresa M. Terlje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (L.S.) - Theresa M. Terlje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENTLY THREATENED LAWSUITS PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMBERRO LAND TRUST ACT.

If you require any special accommodations, auxiliary aids, or other special services, or for further information, please call the Office of Vice Speaker Theresa M. Terlje at 472-3586. For copies of any of the Rules or Resolutions listed on this agenda, you may log on to the Guam Legislature's website at www.guamlegislature.com. Testimonies may be submitted directly to our office at the Guam Congress Building at 103 Chalan Santo Pagan in Hagåtña or at the President Office of the Guam Congress Building, 4th floor at 472-3588, or via email at complaint@legis.guam.guam.gov.

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SUNNY STROLL: Tourists enjoy the sunny weather as they explore Tumon in this file photo. Last fiscal year, Guam saw 1.5 million visitors. App at the end of this fiscal year, GVB expects that number to reach 1.57 million. David Castro/The Guam Daily Post

Audit: Hotel rates, tax collections rise with visitor numbers

Guam tourism's booming visitor arrivals were mirrored in the amount of taxes collected from hotel room guests.

Fiscal year 2016 Tourist Attraction Fund collections rose 10 percent compared with the previous year, totaling \$40 million, according to an audit on Guam Visitors Bureau finances, released yesterday.

This was due to the increase in the number of Guam's hotel room guests, and the increase in the average room rate, the report stated.

An 11 percent hotel occupancy tax is assessed on the daily rate of a hotel

When more people want hotel rooms, the occupancy rate goes up - and so does the cost of the hotel room, which was also reflected in the hotel occupancy tax collection.

Guam hotel rooms had an 8 percent average occupancy in fiscal 2016, up from 7.4 percent the previous year. However, during peak season certain Guam hotels have had to turn guests away because they're fully booked.

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I Mina'trentai Kuåttro na Liheslaturan Guåhan

34th Guam Legislature

OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

Public Hearing

Friday, March 17, 2017

9:00 a.m.

AGENDA

Resolution No. 51-34 (LS) - Introduced by: Therese M. Terlaje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD
TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN
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CHAMORRO LAND TRUST ACT.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via [I Liheslaturan Guåhan's](#) live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at [\(671\) 472-3586](tel:671-472-3586) or by sending an email to senatorterlajeguam@gmail.com.

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 | F: (671) 472-3589 | Email: senatorterlajeguam@gmail.com
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I Mina'trentai Kuáttro na Liheslaturan Guáhan
 Office of the Vice Speaker
 Senator Therese M. Terlaje
 Committee On Culture and Justice

Date: Friday, March 17, 2017 Time: 9:00 AM

Resolution No.: 51-34 (LS)
 PUBLIC HEARING
 SIGN UP SHEET

NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
				WRITTEN	ORAL	Yes	No
1. Ted Nelson	Box 181	7276311					✓
2. Rudolph Villaverde	Box 218056	7349314	rev5rev5@gmail.com				✓
3. Bob Pelky YMLG	Pro. Box 20142 Bsm	637-3356	bobpelky55@gmail.com				✓
4. Harold Curre	Orlet	689-9293					✓
5. Babanfa	Yigo	489-8136					✓
6. Sauna Ofing	Mangilao	637-5644			✓		✓
7. Magsi Lahen Pagat	Mangilao	482-1660					✓
8. Vincent GAAIIBS	DSD	637-5700					✓
9. Enrique Torres	Yorpe	489-2895					✓
10. Rambo Buenavente	Mangilao	838-8358			✓		✓



I Mina'trentai Kuåttro na Liheslaturan Guåhan
Office of the Vice Speaker
Senator Therese M. Terlaje
Committee On Culture and Justice

Date: Friday, March 17, 2017 Time: 9:00 AM

Resolution No.: 51-34 (LS)

PUBLIC HEARING
SIGN UP SHEET

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Aguon John Raymond		888-8806	atelaiz2@gmail.com	✓		✓	
2	Hope Quastone / Leming					✓		✓
3								
4								
5								
6								
7								
8								
9								
10								



I Mina'trentai Kuáttro na Liheslaturan Guáhan
 Office of the Vice Speaker
 Senator Therese M. Terlaje
 Committee On Culture and Justice

Date: Friday, March 17, 2017 Time: 9:00 AM

Resolution No.: 51-34 (LS)

PUBLIC HEARING
 SIGN UP SHEET

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Francisco K. Mesa	P.O. Box 11641, Tamuning	925-3074	fransh.k.k@hawaii.gov				✓
2	Lasia Casil	545 Bishop Plano	688-1139	user522@hawaii.gov		✓		✓
3	Bob Power	CHAIR 227 N. APOLO	929-6000					
4	Ray Lujan							
5	Lakretia Castro-Santos							
6	Rosario Perez							
7	Jamela Santos	Mangilao			✓	✓		✓
8	Ben Mend							✓
9	Edward Cruz	Barriogata	489-8156	"				
10	Tressa Diaz	Tutu	682-3233					✓



I Mina'trentai Kuáttro na Liheslaturan Guáhan
 Office of the Vice Speaker
 Senator Therese M. Terlaje
 Committee On Culture and Justice

Date: Friday, March 17, 2017 Time: 9:00 AM
 Resolution No.: 51-34 (LS)

PUBLIC HEARING
 SIGN UP SHEET

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Castro-Santos, Lakreitia		(771) 689-5454	L.CASTRO04@LIVE.COM	✓	✓	✓	✓
2	Jose Ulloa Garrido	TFFA	686-9075	HUMATAK@GUAM.NBT.I		✓		
3	Josefa Quiranta		977-2015	JOSETTERUMATA@gmail.com		✓		✓
4	MAUNY DIONOR		727-5440					✓
5	Magasaiti	4160	653-6637			✓		✓
6	DAVID PRABO	4160	489-2457					✓
7	DARRIN PANGELINAN		988-7706	darrin.pangelinan@gmail.com	✓	✓	✓	✓
8	Mizhael Bravazon	Mang. 700	968 7106					
9	Carlos Chuachan	Duvungad's	667-7233					
10	Trini Torres	Toto Chochaga				will submit later	✓	✓

Aika Pili

477-2723



I Mina'trentai Kuáattro na Liheslaturan Guáhan
Office of the Vice Speaker
Senator Therese M. Terlaje
Committee On Culture and Justice

Date: Friday, March 17, 2017 **Time:** 9:00 AM

Resolution No.: 51-34 (LS)

PUBLIC HEARING
SIGN UP SHEET

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Rosa Salas Palomo	P.O. Box 909, Hagoña 96932	727-5572	kailee.rosapalomo@gmail.com		✓		
2	Nieves					✓		
3	Shannon McManus	P.O. Box 8879 Aguadalu	685-9384	keckipalau@gmail.com		✓		
4	Jonathan Glaser	P.O. Box 8878 Aguadalu	685-9384				✓	
5	Catherine F. McCollum	115 Ponzales St. Tampabay, Gu. 96913	488-6662				✓	
6								
7								
8								
9								
10								



I Mina'trentai Kuáttro na Libeslaturan Guáhan
 Office of the Vice Speaker
 Senator Therese M. Terlaje
 Committee On Culture and Justice

Date: Friday, March 17, 2017 Time: 9:00 AM

Resolution No.: 51-34 (LS)

PUBLIC HEARING
 SIGN UP SHEET

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support		
					WRITTEN	ORAL	Yes	No	
1	Rene L. Lagumans					✓		✓	
2	Red Pablo					✓			✓
3	Wm. Noy Tenk	Att →				✓		✓	
4	Carmen Kasperbauer					✓			
5									
6									
7									
8									
9									
10									



I Mina'trentai Kuáttro na Liheslaturan Guáhan
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PUBLIC HEARING
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	ALISSA ECUAVEA	Yona	484-7438	alissa.ecuavea@gmail.com	✓		✓	
2	Desiree Ventura Tumargo	Yigo	685 5102	desiree.tumargo@gmail.com		✓	✓	
3								
4								
5								
6								
7								
8								
9								
10								



I Mina'trentai Kuáttro na Liheslaturan Guáhan
 Office of the Vice Speaker
 Senator Therese M. Terlaje
 Committee On Culture and Justice

Date: Friday, March 17, 2017 Time: 9:00 AM

Resolution No.: 51-34 (LS)

PUBLIC HEARING
 SIGN UP SHEET

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Atty Mike Phillips							
2								
3								
4								
5								
6								
7								
8								
9								
10								

ROBERT A. UNDERWOOD
Box 3159 Hagatna GU 96932

Senadora Therese Terlaje,
Leheslaturan Guahan
Hagatna, GU

Buenas yan Hafa Adai,

Kon dangkolo na respetu, hu presenta giya hagu yan i membron i Lehislaturan Guahan i siniente-ku put i direchon i manChamorro para u ma disidi i destinon-niha. Sin hafa na dinida, gaige i islan Guahan gi presente na estao pulitikat ginen i fuetsan i taotao san hiyong ni' humalom yan maekstende i aturidat-niha. Taya' na mana'e' i Chamorro i upotunidad gi fotmat na manera para u ma'aksepta este.

En lugat di manmafalsen i Chamorro, ma aplika i lai, i sistema yan i fuetsan-niha para u mana'siguru na nigai'an na u mana'e' i Chamorro este na upotunidad. Estaguiya i sustansia-na i disision gi kaosan Sinot Davis gi Kotten Fidirat. Manhalom, ma'establesi i autoridat-niha, pues manega i kinalamten i taotao yan masangani hit na yanggen un espiha hafa na remedi u para i linachen-niha, siguru na mahala halom i agaga'-mu gi me'nan i hues yan masangani hao na hago mismo lache.

Pues dibi di ta petsigi este na kaosao gi kotten fidirat yan ta apela i disision. Ti siguru yu' kao maolek humuyong-na este na chalan i kotten fidirat, lao siguru yu' na debi di ta chagi sa' gi presente esti na gaige i lugat annai sina ta na'tungo' i otro siha na taotao put i kinalamten i taotao-ta.

Si Yu'os ma'ase' nu i resulasion-mu yan puede ha' u ma'apreba nu i entiriru i lehislatura,

Si Robert A Underwood

Testimony from: **Rita Franquez**

Telephone no.: (671) 489-6253

Taken via Telephone on 03/17/17, 8:46 a.m

Testimony

8:53 a.m. She called to tell Vice Speaker T. M. Terlaje that she is really sick and can barely walk. She cannot go to the hearing this morning.

She wants the Vice Speaker to realize and to not be emotional about the law.

“The law that gave the Chamorros’ authority to vote on self-determination was given by the/through the Native people of Guam.”

(Most Importantly)****Who were made U.S. citizens by the Organic Act of Guam, 1950.**”

“And everybody is getting emotional...Just by following the law.”

She apologizes for being unable to attend and thanks the Vice Speaker.

Taken by: C. B. Kintol, Policy Analyst (8:58 a.m.)



(no subject)

1 message

ned pablo <nedrpablo@hotmail.com>
To: "senatorterlajeguam@gmail.com" <senatorterlajeguam@gmail.com>

Wed, Mar 15, 2017 at 10:48 AM

Dear World,

I am a native of Guam, a United States island territory in the Pacific. We natives, or indigenous people, are called Chamorro. Currently, Chamorros are facing something very similar to what the Native Americans and Native Hawaiians have been facing – the repossession of our land by the U.S. Government.

Historical Background:

Our island was conquered and colonized by Spain in the 1500s through 1898. During that period, there was near total genocide of our people as our population was greatly reduced due to our resistance to Spanish colonization which led to war, and the introduction of European diseases. Our people were raped, massacred and enslaved for hundreds of years by the Spaniards. Our land, seas, and our humanity was taken from us. Translate many of the existing indigenous Chamorro last names and you will find that even some of these names represent despair and loss experienced during this period of history.

Then in 1898, the United States took possession of our island following the Spanish-American War.

In 1941, we were conquered by Japan during World War II. We were once again enslaved, placed in concentration camps, worked to death, starved, tortured and killed by the Japanese. My grandparents, survivors of the War, never talked about these things, so we had to learn about this dark period of our history from other survivors who were willing to talk, and through books and scarce written memoirs. It wasn't until my grandma had dementia when she would display symptoms of PTSD such as flashbacks and paranoia, forcing us to board the windows because "the Japanese are coming."

It was not until 1944 when we were liberated by the U.S. from Japanese occupation. Following our liberation, our parents were subject to more oppression. I don't know much about this because once again it is often taboo to talk about such harsh realities; however, it is known that the Americans, among other things, beat our parents for speaking the native language at school. As a result, many of us are unable to speak our native language today.

And although we gained U.S. citizenship, we have never been allowed to vote for president of the United States. We were described as "savage" and "alien races" because we were not Anglo-Saxon. Therefore, we were not granted federal voting rights.

Today, there are two large U.S. military bases on our island: Andersen Air Force Base and Naval Base Guam. Guam serves as one of the greatest strategic military locations in the Asia-Pacific region. Our island is also home to one of the highest concentrations of military veterans among U.S. States and territories. One in eight adults on our island have served in the armed forces. As of 2013, the Dept. of Defense controls nearly 36,000 acres of Guam land, or approximately 1/4 of the island. If that area is concentrated, it would be as large as Inalahan, Malessa, Talofoto, and Humatak combined.

Today:

Following a discrimination complaint filed by a non-native resident, the Dept. of Justice, in a letter to our governor, stated it completed an investigation into possible violations of the Fair Housing Act in Guam's land-use policies and practices under the Chamorro Land Trust Act. The Chamorro Land Trust Act allows

natives to lease certain lands for 99 years for \$1 each year. This allows natives to lease some of the lands that were seized or otherwise acquired due to colonization. This is our government's version of Native Chamorro reservations. This land, potentially, could be designated for natives so that in the event much of our island is bought out by non-natives, and should we continue to become more and more of a numerical minority, we would still have some land to facilitate our social, cultural and economic well-being to secure our existence on our island.

However, the U.S. Government believes that this is discrimination, and that these designated ancestral lands should be open to all people, natives and non-natives alike.

Many Chamorros believe that this means that the designated lands -- essentially Native Chamorro reservations -- are once again being claimed by the U.S. Government and non-natives. Many believe that this is equivalent to Native American reservations being stolen once again by non-natives, and equivalent to the repossession of Hawaiian land from Native Hawaiians.

My people were here long before anyone who massacred, raped, enslaved and colonized us; and these very same people are once again trying to steal the little that we have, and threaten the dignity we and our ancestors have long fought and died for. The land that gave us life as a people. The land that was our mother and that gave our mothers life. We ask, why do they continue to take that which is sacred to us only to satisfy their greed? How can you claim something that was never yours and yet stolen over and over again? It is less than 33 miles, but it means everything to us. These lands do not just secure our physical and economic existence, but rather, they spiritually define who we are as a people and what little we have left as a result of colonization and genocide.

In conclusion, I leave you with words that are truer today, more than any other day in modern Chamorro history:

Ginen i mas takhelo' gi Hinasso-ku,
i mas takhalom gi Kurason-hu,
yan i mas figo' na Nina'sifa-hu,
Hu ufresen maisa yu' para bai hu Prutehi
yan hu Difende i Hinengge,
i Kottura,
i Lengguahi,
i Aire,
i Hanom yan i tano' Chamoru,
ni'lrensiâ-ku Direchu ginen as Yu'os Tâta.
Este hu Afitma gi hilo' i bipblia yan i banderâ-hu, i banderan Guâhan.
Fanohge Chamoru.

Translation:

From the inner-most recesses of my mind,
From deep within my heart,
And with all my might,
This I offer.
To protect and defend
The Beliefs
The Culture
The Language
The Air
The Water and The Land of the Chamoru.
My heritage comes directly from God,
This I affirm on the Bible and my Flag
- The Flag of Guahan.
Stand Up Chamoru.

We request that you share this message so that the world can hear our voices and the voices of our ancestors. We desperately need you.

In solidarity with all indigenous peoples fighting for their rights, we sincerely thank you for your support and love.

Saina Ma'áse,

Genedine Mangloña Aquino

• Please share this in support of the Chamorro people, and in solidarity with all indigenous people fighting for their rights.

Sent from my Samsung Galaxy smartphone.

March 17, 2017, 9:00 a.m. 34th Guam Legislature Public Hearing of Resolution No. 51-34 (LS) and 52-34 (LS)

Oral Testimony in support of Resolution 51-34 (LS) Chamoru translated in English:

Ned Pablo

Buenas.

(The Chamoru language was translated in English by Ned Pablo.)

Hello. I am Ned Pablo. This is what I going to say, I do support the resolution, to challenge. And don't stop challenging the U.S. District Court. And whoever else is going to challenge us, or to make them more [at an] advantage to us.

We are the People of the Land.

We are the ones that own the lands of the Chamorro. And we are not by ourselves. There are others that want to help. The Chamorros from the Northern Marianas they're interested. What more, every day, every minute, the Chamorros from the States, the Marianas, and Guam, they keep saying they support what I'm doing and what we're doing.

And what you're doing, you're fighting for your rights and our inheritance. Our inherited right.

Here's Louis Manglona, he's saying to me (Mr. N. Pablo reads from his smartphone):

Respect with respect and salute, get together and let your flag rise and wave. And we support you one hundred (100) times over for the rights of the Chamoru. Hold hands together and be careful that it breaks. Make you guys strong. Be strong. All of you guys be strong. Because we love you and it's a job that will determine what's going to happen. Louis Manglona.

All the Chamorros from Rota, Tinian, and Saipan, want to get together and challenge the federal, the U.S. District Court. Whatever they are going to do, whatever they are going to do to us, to take away our land, our inheritance, our inherit right.

All of you leaders, senators, Governor, Lieutenant Governor, Congresswoman, gotta hold hands together and be strong. And you know, I almost gave up, you know, my strength. Because I almost didn't have enough sleep because the federal kept bothering me. It kept following me everywhere around the world or wherever I am at. Wow! These types of people would do this is that democracy?

I doubt that. I don't believe that many more. Because of what I did, because I told the truth and I put them in their place. I put them in their place where the dirt is dirty. You'll open up the dirt and put their lies and their deceit down in the ground and bury their deceit and their lies.

They think they are gonna [going] governance us and they're going to tell us how to do things and what to do? And don't, you guys that are up there in office, you guys better listen to the people. What more, the Chamorro people, because we are the People of the Land.

And this is what all I'm going to say. If you need help from the people, the Chamorros that are not Chamorros, there's plenty that believe on [in] what I did. And I will call them and let them know when and where. When you guys need their help and I will make sure that the people will come, when in need in time of help and support. It doesn't matter if you're gonna [going to] protect and defend the culture, the language, and the rights.

And this is what I'm going to say. The people are starting to be hurt and they're feeling hurt and they are telling me everything.

And this is all I'm going to say, Tydingco-Gatewood, once they turned in the resolution to challenge to appeal. I'm telling you; we're not going to wait long, because we are going to come back. Across the street, near the beach, on the other side of the court, and we're going to let you know that we're not playing around anymore. You need to listen to us, the Chamorros, the People of the Land. We're not going to listen to you guys anymore. You need to listen to us.

Make a lie; make a law that will at least tell us, the People of the Land. You know what, we don't need to listen to their ruling that they made a decision on. You senators just do whatever to the highest of your ability or power to stop this. And I will be the force that will be your backing with the people if you need the people, because they woke up. And we'll just let it go and see what happens. You know, we'll see what happens.

If they act like it's nothing, even if, you know, we don't know, or they don't let us know, we will know that they're making it like we're nothing. So we'll make it like they're nothing too because we'll come back. And this time there will be more people.

Believe. Believe. Because I'll speak talking to the people on Facebook, and the people who just keep talking amongst each other and we'll be informing each other of what will be or have.

And that's it.

[07:14]—Watsapp recording sent on 03/20/17, 4:26 a.m.

March 17, 2017

Honorable Therese M. Terlaje
Vice-Speaker, Committee on Culture and Justice
Suite 201
155 Hesler Place
Hagåtña, Guam 96910

RE: Resolution 51 -34 (LS)

Dear Senators of the 34th Guam Legislature,
My name is Connie Rose Lujan Sayama and I am a native inhabitant of Guåhan. I am submitting this written testimony in support of Resolution 51 -34 (LS), on measures to appeal against the ruling of the District Court of Guam in the Davis v. Guam case, and in defending the rights of the native inhabitants of Guam.

Today, we stand up tall, with our right hands over our hearts, as we recite the pledge of allegiance to the flag of the United States of America. Thereafter, we struggle to find the words to our Guam Hymn, the Fanoghe Chamorro. Lastly, we end with our Guam pledge, struggling again, as we murmur the Inifresi. As we hoist our Guam flag, the Seal of Guam is **halted**, as the U.S. flag is risen first, and as the U.S. flag is lowered, for a short period, our Guam seal sways independently before it is lowered, and is **halted** once again. For too long, our Chamorro people have been stripped of their inherent rights as indigenous people of Guam. Once again, we were **halted**, as Judge Frances Tydingco-Gatewood ruled in favor of the U.S. constitution, a constitution that is not our own.

The United Nations Declaration on the Rights of Indigenous Peoples, Article 3, states,
“Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” Guam’s political status plebiscite created a path toward self-determination for Guam’s future, a decision native inhabitants have never been a part of, due to centuries of colonization.

The National Association of Social Workers, in their policy statement on Sovereignty, Rights, and Well-Being of Indigenous Peoples, “condemns oppressive acts by administering powers of government that exploit indigenous peoples,” and supports, “the rights of indigenous peoples in their efforts to gain health and self-determination.” By the hands of colonizers, the Chamorro people have endured the exploitation of their land and peoples, all of whom have inferiorized their inherent rights as indigenous people of Guam. Today, is no different story.

“If we jump too quickly to the universal formulation, ‘all lives matter,’ then we miss the fact that [Chamorro] people have not yet been included in the idea of ‘all lives.’” By ruling in favor of an all-inclusive vote, we dismiss the fact that the Chamorro people were the “all,” first. As the first peoples of Guåhan, these are our inherent rights, which can never be seized.

Senators of the 34th Guam Legislature, by supporting this resolution, you are recognizing that this Davis v. Guam ruling is a social injustice to the native inhabitants of Guam, and you are supporting their rights to self-determination. I support Resolution 51 -34 (LS), on measures to appeal against the ruling of the District Court of Guam in the Davis v. Guam case, and in defending the rights of the native inhabitants of Guam. Thank you for your consideration.

Si Yu’us Ma’ase,



Connie Rose Lujan Sayama, BSW

BARRIGADA

Office of the Mayor & Vice Mayor
124 Luayao Lane, Barrigada, Guam 96913

March 17, 2017

COPY

Honorable Therese M. Terlaje
Chairperson, Committee on Culture and Justice
I Mina Trentai Kuattro na Liheslaturan Guåhan
Hagåtña, Guam 96910

Re: Resolution No. 51-34 (LS) - "RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM."

Madame Chairperson and Author of Resolution No. 51-34, *Buenas yan Saludo para Todos Hamyu!* Vice Mayor Jessie P. Bautista and I, together with members of the Barrigada Municipal Planning Council submit this testimony expressing our support to Resolution No. 51-34 (LS), "Relative to supporting that the government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the Native Inhabitants of Guam."

We defend the rights and privileges of "native Chamorros" and their descendant's based on the authority and enactment of the Organic Act of Guam.

We have always maintained that the Plaintiff "*has no claim*" because the lawsuit he filed over the non-binding plebiscite on Guam's political status "*does not constitute a vote within the meaning of the Constitution, or the Voting Rights Act.*"

It has always been our position that the Plaintiff is challenging an advisory plebiscite and does not involve an election for public office. It is a poll. And in our commonsense opinion does not constitute a vote within the meaning of the constitution.

Furthermore, even if "Native Inhabitants of Guam" were determined to be an intentionally race-based classification, the Plaintiff's claim are not ripe for judicial review because there is no election to be registered to vote in on any foreseeable horizon."

Also, even if the Plaintiff's claims were ripe and the proposed plebiscite was to be held in the foreseeable future, he has suffered no injury because it is not self-executing and does not affect his political or judicial rights in any way.

In closing, we state that "*until such time as the unincorporated territory of Guam formally enters the union as a state, the "native inhabitants of Guam" are constitutionally authorized to express their desires in their own advisory plebiscite and to have those desires transmitted to Congress, the President and the United Nations.*

Honorable Therese M. Terlaje
Chairperson, Committee on Culture and Justice
Re: Res 51-34 (LS)
March 17, 2017
Page 2

Before we close, allow us to quote from the Plaintiff's own column, "*...the Plaintiff complains that he is not permitted to register for an election that he predicts 'will forever be an alluring mirage out there on the horizon,' unless the laws he challenges are changed. By his own admission, this matter is not and may never be ripe for judicial review.*"

In closing, allow us to say that it should be the colonized people of Guåhan who should participate in this exercise and those who were made citizens of the United States and their descendants by virtue of the passage of the Organic Act in 1950.

Thank you for allowing us to submit or comments on Resolution 51-34 (LS).

Sinseramente,


JUNE U. BLAS
Mayor


JESSIE P. BAUTISTA
Vice Mayor

Attachments:

1 GCA General Provisions
Chapter 21. Commission on Decolonization
for the Implementation and Exercise of Chamorro Self Determination.

§2105. Function. The general purpose of the Commission on Decolonization shall be to ascertain the intent of the Native Inhabitants of Guam as to their future political relationship with the United States of America. Once the intent of the Native Inhabitants of Guam is ascertained, the Commission shall promptly transmit that desire to the President and the Congress of the United States of America, and to the Secretary General of the United Nations.

SOURCE: Repealed/reenacted by P.L. 25-106:10.



GUAM ELECTION COMMISSION
Kumision Eleksion Guåhan



Your VOTE is your voice. ✓ BOTA ya un ma kuenta.

March 16, 2017

Honorable Therese M. Terlaje
 Chairperson
 Committee on Culture and Justice
 I Mina'Trentai Kuattro Na Liheslaturan Guåhan
 Guam Congress Building
 162 Chalan Santo Papa
 Hagåtña, Guam 96910

Håfa Adai Chairperson Terlaje,

Si Yu'os ma'åse' for the invitation to the Public Hearing on Resolutions 51-34 and 52-34. The duties of the GEC are prescribed by law and by court decisions interpreting those laws. Before the Decision and Order issued by District Court of Guam in *Arnold Davis v. Guam, et al.*, the GEC had for a number of years been carrying out its duties to register and promote the registration of Native Inhabitants of Guam. In light of the ruling from the District Court, the GEC has ceased all activities related to the registration of Native Inhabitants of Guam. If there is a change in the Court's order, or if the law changed, the GEC will move forward accordingly.

Sinseramente,

Maria J.D. Pangelinan
 Executive Director

cc: Honorable Michael F.Q. San Nicolas, Chairperson, Committee on Rules

Vice Speaker Therese M. Terlaje

MAR 16 2017

Time: 10:51 am

Received by: CPM/AM

414 W. Soledad Ave. • GCIC Bldg. Ste. 200 • Hagåtña, Guam 96910
 671. 477.9791 (tel.) • 671. 477.1895 (fax)
 vote@gec.guam.gov (e-mail) • <http://gec.guam.gov> (website)



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Resolution 51-34 yan 52-34

Angela Santos <asantosfanohgeprutehidifende@gmail.com>

Fri, Mar 17, 2017 at 4:58 PM

To: senatorterlajeguam@gmail.com

Hâfa adai Vice Speaker yan A'saina ma'âse'!!!

Hu hahassu....

I mañaina-ta, todû ha na mâtai para ini na cause.

Hu hahassu....

I taotao na man gagaige' ha pâ'gu, hami nu'i man gogotte' ini na cause.

Hu hahassu....

I famagu'on-ta, put I na Ti ha siesiente ini na cause!

Hu hahassu....

I trongku' siha, ni gai Hilu' i tânu, I tanu' na gaige hâlom i tasi!

Hu hahassu....

I taotaogues na mâtai put ini na cause!

Ya Ti malagu yu' na bai hassu!

Malagu yu' na bin mâtai esta!

Hu siesiente' I mañaina-ta.... yan trinite!

Hu siesiente I taotao-ta pâ'gu.... yan trinite!

Ti malagu Hu na bin na tungu I famagu'on-ta put ini na puti!

Hu agradezi todû bidâ mu para I taotao ta! Hu agradezi todû bidan miyu para I taotao ta!

Hu supotte' ini na resolution yan A'saina ma'âse'!!! BIBA CHAMORU!!!

Si,

Anghela Santos

Sent from my iPhone

Testimony

**Elizabeth Bowman, Ph.D.
Assistant Professor, University of Guam
16 March 2017**

I am writing in support of the bills introduced by Senator Terlaje, Res. No. 51-34 (LS) and Res. No. 52-34 (LS).

The Davis court ruling and the Chamorro Land Trust threat are both very dangerous to the stability and sustenance of the Mariana Islands. The Chamorro people must be recognized as a people under the guidelines of the United Nations with the right to decolonize. The United States must take responsibility for ensuring the smooth political transition of Guam and the CNMI to modern state statuses.

The human rights of the Chamorro people have been most severely offended by the "spoils of war" mentality and actions of the United States during colonialism that continues today. The descendants of the people of Guam, and the CNMI, should have the right to engage in a decolonization plebiscite that is recognized by their colonizer.

I am not of Chamorro ethnicity. I am an American woman of Irish and German descent who been resident in these islands since 2012. I enthusiastically support the rights of the Chamorro people to decolonize. Their right to self-determination in no way impedes or threatens any of my civil rights or those of any other inhabitant of the islands and is in no way a "racist" political perspective.

Sincerely,

Elizabeth Bowman



Nihì Ta Fanhasso'

Cultural and Historical Consulting

PO Box 3373, Hagåtña Guam 96932

Ph: (671) 472-6951; Cell: (671) 988-4612/4690

20 March 2017

Therese M. Terlaje
Vice-Speaker, 34th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guahan

Hafa Adai Vice-Speaker Terlaje,

As an ethnohistorian who has taught Hestorian Guahan, the History of Guam, for over 12 years at the high school and university levels and has studied the subject for even longer, I strongly support resolutions 51-34 and 52-34 re: rectification of past and current injustices related to territorialization and decolonization.

The US committed an injustice against the Native Inhabitants of Guam when it did not provide them any voice in the determination of their political status when it bought Guam from Spain. The US committed an injustice when it did not provide the Native Inhabitants of Guam any citizenship nor any rights espoused under the US Constitution as such for 50 years, when the Native Inhabitants of Guam left as were mere wards of the nation. The US committed an injustice toward the Native Inhabitants of Guam when it unilaterally imposed a territorial system first through a military government and then through the Organic Act without any vote or formal input from those who the US Congress labeled and defined as the Native Inhabitants of Guam [see also Treaty of Paris 1898]. Those are the injustices that need to be remedied by self-determination.

It was the US itself, after WWII, that submitted Guam as a candidate to the UN list of non-self governing entities in need of decolonization. The US did not place Guam on that list in recognition of needing to better apply the US Constitution to Guam (though that also continues to be gravely lacking), but in recognition that the Native Inhabitants of Guam—who never provided their consent to be governed by others, who never had a voice in formally determining their political status—deserved the right to rectify those injustices by finally having a voice and the ability to self-determine their political status.

I will not compound this long history of injustice against the Native Inhabitants of Guam by drowning out their voices with mine. My family was not rendered voiceless in determining their political status, they made decisions and were heard all along the way. My great-grandparents chose to immigrate to the US. My parents voted with their feet as some say, when they chose to come to Guam. Guam did not come to them and impose itself on them as the US did to the Native Inhabitants of Guam. This muddying of the waters and the dissolution of the voices of the wronged peoples by the influx of non-Native Inhabitants of Guam is precisely why the UN General Assembly adopted a resolution instructing member states to prevent migration to colonial territories from having a distorting impact on the exercise of the right to self-determination.

Senseramente,

3/20/2017

X

si Kelly G. Marsh (Taitano)

Adjunct Professor, University of Guam
Principle Researcher, Nihì Ta Fanhasso' Cultural
and Historical Consulting



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Resolutions 51-34 & 52-34

LeRoy Moore <leroyamoore@yahoo.com>
 Reply-To: LeRoy Moore <leroyamoore@yahoo.com>
 To: senatorterlajeguam@gmail.com

Tue, Mar 21, 2017 at 8:50 AM

Vice Speaker Terlaje:

I am sending you this email regarding your two resolutions, 51-34 & 52-34.

A few facts.

2010 US Census data:

Total Population 159,358. Individual identified as Chamorro, 59,381, non-Chamorro 99,977

Total Population in US (including Guam) of people who reported Guamanian or Chamorro 147,798 either alone (88,310) or in any combination (59,488).

There have been three separate Federal Court cases which have defined the practice of race/culture based voting and other restrictions as illegal violating the Constitution and the rights of individuals. The Guam Commonwealth Act also died a similar fate because of Article 1 which only allowed Chamorros to vote.

Yet, Resolutions 51-34 & 52-34 double down on Guam's racist laws and regulations.

"Racism" Definition: Prejudice, discrimination, or antagonism directed against someone of a different race.

The 99,977 residents of Guam that you are so willing to discriminate against thank you and your fellow senators who support these resolutions for not hiding your racist agenda.

I've lived on Guam for 25 years. I own property, a business, and my children were born and raised here. And yet, these resolutions make it perfectly clear that you and your fellow Senator's still do not consider me worthy of "your" island lest I do things like vote on something as important as Guam's political destiny. Government land is given to Chamorros for \$1 year, non-Chamorros are not worthy because we're the wrong race, not worthy of the land that belongs to Chamorros.

I included the census data above to make a point. In case its not clear to you, I'll explain. You see, the "Chamorro" people have already voted on their political destiny. 147,798 people in the US (including Guam) who call themselves Chamorro. Of which 59,381 live on Guam. That's 88,417 that don't live on Guam. Those Chamorro's voted with their feet that they want be part of the good old USA, specifically a State. You know, where race based discrimination is illegal. So, the majority of Chamorros have already voted to be residents of a State. Of course based on your actions, I assume this fact is irrelevant to you. Chamorros who live in a State can be discriminated against as only Guam Chamorros matter.

After all, they must not be true Chamorros if they left Guam. The politics of the island is designed to support the Chamorros at the expense of all other races. What is the race basis of the Government of Guam, 90%+ Chamorro? Where does the discretionary funding go? Things like Chamorro Cultural Centers, Pacific Island Festivals, etc. What's the race basis of the Guam Legislature and staff, 90% Chamorro? If your Chamorro you can receive Government land for \$1 a year. Or a degree from UOG in Chamorro so you can get a Government job teaching Chamorro. Why would any true Chamorro chose to live elsewhere?

And yet, those 88,417 Chamorros chose to live where opportunity is not based on race or who you are related to. Where each person is equal with equal rights.

Regretfully, I don't have the legislative immunity you and your fellow senators have. If I implemented such a racist policy at my firm, I as an individual would be subject to Federal Civil Rights violations. You and your fellow senators are free from such restrictions and continue to violate the rights of 99,977 residents freely. Congratulations! In the mainland, laws that discriminate based on race are called Jim Crow laws.

Your resolutions meet this definition, but Jim Crow seems wrong. Let's call them Therese Terlaje.

Myself and other non-Chamorros wonder why we continue to pay all those taxes to the Government of Guam when the Government has made it crystal clear that non-Chamorros are not equal to Chamorros.

The United States were founded with the slogan "No Taxation without Representation". Myself and others wonder, would you and your fellow senators hear the voices of the 99,977 non-Chamorro citizens of Guam better if we stopped paying taxes to Guam?

Senator Terlaje it's 2017. The past is gone. The "NOW" is calling you.

Perhaps your right, Guam is the land of the Chamorros. The 99,977 non-Chamorros are just visitors, not eligible for equal rights on your island.

With that position, I cannot see how you can maintain your US Citizenship which requires you by law not to discriminate based on race.

I look forward to you and your fellow senators who supported these resolutions public announcements of your relinquishment of your US Citizenship so you may freely discriminate without those pesky civil rights regulations. Regretfully, after relinquishment of your US citizenship you'll need to leave Guam as Guam is part of the United States. I would recommend relocating to the northern island of Maug. It's a fitting location. It's the backwards spelling of Guam where backwards views like race discrimination can live freely.

LeRoy Moore
Guam Resident and Registered Voter
US Citizen.

ROBERT A. UNDERWOOD
Box 3159, Hagatna, GU 96932

March 16, 2017

Vice Speaker Therese M. Terlaje

Therese M. Terlaje
Vice-Speaker, 34th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

MAR 16 2017

Time: 3pm

Received by: QMM

Dear Vice-Speaker Terlaje,

I am writing you to alert you about the maximum danger point which the Chamorro people face today. I could write about my passion (fino' Chamorro) or the Chamorro Land Trust which is also being threatened. But I want to draw your attention to the matter of Chamorro Self-Determination. This is the inflection point of not just the continued existence of the Chamorro people, but a test of whether we understand Guam's unique history. Ultimately, it is a question of respect for the Chamorro people.

As a long time history teacher, I warn students to avoid thinking that history began when they came along or when they started thinking about it. History is a long and, frequently, tortured story. Acting on the political status future for Guam is a historical project that belongs to the Chamorro people and goes back several centuries. It is an attempt to understand the past, inform the present and fuel the future. It isn't a "future" project. It is a connective project based on the principles of respect and Inafa'maolek.

People who migrated to Guam in the past few decades brought their assumptions about their own past and their own future primarily in terms of American jurisprudence and authority. I do not contest that nor do I seek to deny them that point of view. I only ask that they understand that the Chamorro people are the ones that have historically been colonized and that they deserve the opportunity to decolonize their homeland. I ask them, just as I remind fellow Chamorros, that the native people of Guam had their own unique experience that continually kept them from exercising the right to make a political decision on their own terms with various options available to them.

The legal authorities have recently spoken. The US District Court in Guam has stated that it is not Constitutionally permissible to allow a vote of Chamorro self-determination even if it was not binding. It is dispiriting and discouraging although not unexpected. Ironically, opponents of Chamorro self-determination appealed to an entirely different set of historical circumstances (American law, Constitutional amendments coming out of the American Civil War, Supreme Court decisions designed to place territories in a perpetual colonial status) in order to defeat the

Chamorro historical experience. In the American Legal battlefield, they prevailed. But while the battle may have been lost, the struggle continues.

We have been at this low point before. I present to you a copy of a document prepared by the Organization of People for Indigenous Rights from 1982. In the document, you will read a clear statement about Guam's history. You will see familiar names like Bernadita Dungca, Clotilde Gould, BJ Cruz, Ron Teehan, Nerissa Lee, Marie Pablo, Al Lizama, Chris Perez Howard, Rosa Palomo and Hope Cristobal. These individuals provided Guam the opportunity to reflect upon Guam's past and future and the existence of Chamorro self-determination.

They were derided and belittled. They were called "half breeds," told that they were inauthentic Chamorros and questioned because they weren't even Chamorro. I can speak from personal experience that members of the Guam Legislature at that time avoided us except for a handful. We didn't wring our hands and we were not disrespectful to anyone. We simply presented our case. The case is still the same. In many ways, the opposition arguments sound painfully similar.

I ask you to take the time to read the document and learn about the political status development of Guam. I ask you to pursue a strategy that honors and respects the Chamorro people in the quest for self-determination. I believe that it is possible to do so without the compromise of multi-colored ballots or simply treating it as another election.

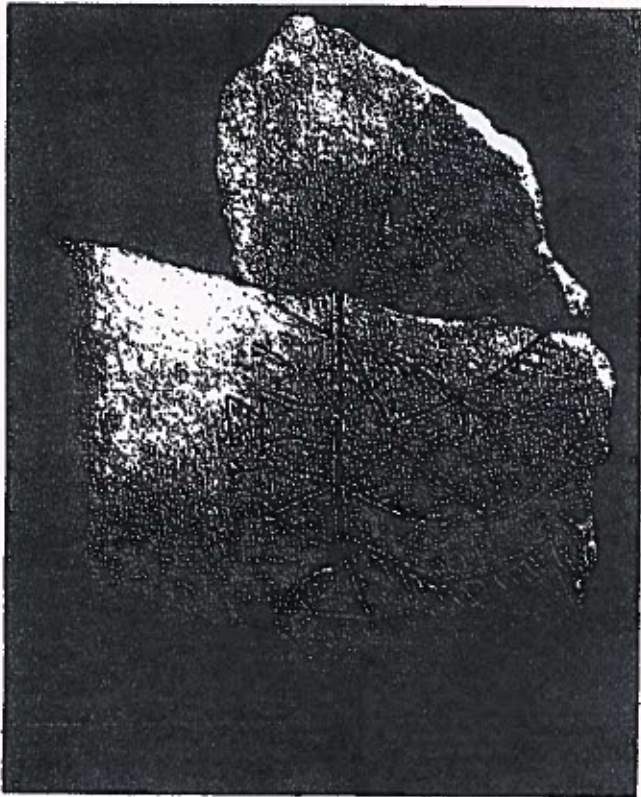
I will be happy to discuss any concern about Chamorro self-determination that you may have. I will be happy to discuss alternative strategies. At a minimum, we must continue the struggle in the US Courts and the United Nations. These are not necessarily the venues that will resolve the issue, but they are the venues which are currently available to us.

Biba taotao tano'i Biba Guahan!



si Robert A. Underwood

Self-Determination:



A People's Right

Paid for by members and friends of The Organization of People for Indigenous Rights

Post Office Box 7622
Tamuning, Guam 98011

Page 2

OPIRO

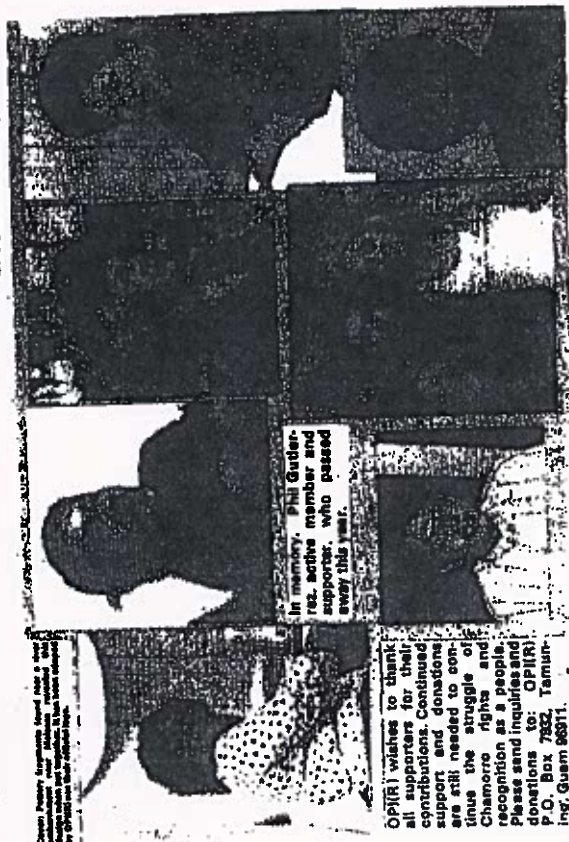
Hafa Adeli!

The Organization of People for Indigenous Rights was organized by concerned individuals in response to the Government of Guam's current political process to change Guam's political status without recognizing the Chamorro's right to self-determination.

We are a non-profit organization composed of people from all walks of life, of different ethnic groups, religious and political beliefs, and political status preference. Our common bond is our belief that only the indigenous inhabitants of Guam, the Chamorro people, have the right to determine their political destiny by changing Guam's political status from a non-self governing territory to a status considered as having a full measure of self government. This right is called the right of self-determination and is defined as "the right of a people to determine the way in which they shall be governed and whether they shall be self governed or governed by another power."

This right has been legally and morally recognized and supported by the United States in numerous documents and in correspondence to the Government of Guam. Why the Government of Guam is failing to uphold the Chamorro right to self-determination is perplexing and there is no indication that the present political status process will change. Our organization is confident that with your support we can halt this unjust action and help to open the way for the Chamorro people to exercise their right to self-determination.

Si Yu'os ma'esse',



In memory, Phil Guder, res. active member and supporter, who passed away this year.

OPIRO wishes to thank all supporters for their contributions. Continued support and donations are still needed to continue the struggle of Chamorro rights recognition as a people. Please send inquiries, donations, OPIRO, P.O. Box 7622, Tamuning, Guam 98011.



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Chamorro Self-Determination

Historical

For over 300 years the Chamorro people have been subject to outside rule, without the Chamorro people's consent. Since World War II nearly all of the world's other colonies have become independent states or permanently integrated into existing nations by exercising their right to self-determination. Guam remains a possession of the United States, the Chamorro people not having exercised their right.

Legal

Articles 102 and 85 of the United Nations Charter, proclaim the principle of self-determination and Article 73 obligates all administering powers of non-self governing territories to protect and assist the people of the territories in their development towards full self-government. The responsibility is a treaty obligation which the United States recognizes as law and which has been acknowledged and quoted by both Federal and Territorial policy statements on political issues for the past two decades. United Nations General Assembly Resolution

(OPI/R) CHRONOLOGY OF EVENTS

12/29/81 Saturday: A group of people got together in the morning at the Guam Legislature Room in Agaña for two reasons. They felt that: 1. The people of Guam needed to be educated on the meaning of self-determination. 2. The Plebiscite vote should be held to the indigenous people of Guam.

The group called itself the "Organization of People for Indigenous Rights" whose acronym is OPI/R. OPI in Chamorro means "to respond" and the "R" stands for "rights." Officers elected that day were: Tun Mariano Santos - Chairman, Bernice Manua - Vice Chairman, Ron Teheun - Secretary and Bernice Durgesa - Treasurer. The group elected 1130 and decided to use it for bumper stickers publicizing the organization. Meetings were then held in different villages to reach out to the grassroots. Flyers explaining reasons for an indigenous vote were distributed to different villages and various Government of Guam agencies.

12/30/81: Bernice Manua stepped down as Vice Chairman and Eddie Cruz was voted to that position.

12/19/81: Motorcade was held to announce the plebiscite rally. Because of heavy rains, the "round the island" motorcade was limited to the central villages where flyers were passed out.

1/8/82: Rally for the indigenous. Vote was held at 5:30 p.m. at the Plaza de Espana. Father Tony Agayon, Agaña Pastor, said the opening prayers and blessings. Host was Jesus Chanfuegos "Chamorro" and guest speakers were: Cecilia Barza, Conrad Stron, George Baughman, Jackson Mazarinas, Mrs. Pichala Toiva, Robert Underwood and Tun Mariano Santos. David Canadua, Jesse Lagunas and Sebastian Canadua provided Chamorro music. A job was also presented by UOG's Chamorro Club. And, former Senator Richard Tesoro's letter supporting the cause was read at the rally. Augusto Urbina created a design depicting the organization's struggle which was used on T-shirts.

1/7/82: A petition drive to link the January 30 Plebiscite to the indigenous people began. The drive gathered 8,000 signatures. This petition was later presented to the United Nations in Japan by Ron Teheun and David Rosario.

1/9/82: Some members of the organization had a private meeting with Pedro Serjuntin at 11:45 a.m. at Government House. Through the scheduled meeting was for 10 minutes, the actual meeting lasted 25 minutes. Two important points stand at the meeting were:

1. Serjuntin acknowledged Chamorro existence by saying first within the Virgin Islands and Puerto Rico, the Chamorro will continue the

government and the political system.

2. Serjuntin will talk to the State Department concerning the indigenous vote.

1/4/82: BR 009 was heard by the Legislature Committee on Criminal Justice. Testimonies regarding BR 009 were given by members and supporters of the Organization. The BR did not pass Committee because of a lack of quorum.

1/15/82: A cable was sent to the United Nations in New York requesting support of the indigenous vote. A similar cable was also sent to President Ronald Reagan.

1/21/82: Tun Mariano Santos was made Honorary Chairman and Chris Perez Howard was voted Chairperson.

1/25/82: Nerissa Lee and Mable Pablo gathered signatures of all but one (Nicolas Francisco of Mangilao Island Commission) requesting that the Plebiscite be delayed until the question of the indigenous vote was settled.

1/28/82: B.J. Cruz, lawyer and member, filed an injunction to stop the January 30 Plebiscite in the District Court. Since Judge Cecilio Quires was off-duty, Judge Abbia appointed Judge Rickler to hear the case. It was "thrown out" because the hearing was held in the wrong court. It should have been heard in the Superior Court.

1/29/82: A strike injunction was filed in the Superior Court presided by Judge Ramon Diaz. Case was thrown out because "a lawyer cannot engage an election" and in both Courts, the merits of the case were never discussed.

1/29/82: The Organization sent Ron Teheun and David Rosario to the United Nations Office in Japan for the following reasons:

1. To deliver a statement of protest on the conditions under which the January 30 Plebiscite was being held. I.e., the failure to link the vote to the indigenous population.
2. To deliver the petition requesting the Plebiscite to be limited to the indigenous population.
3. To lobby with various embassies in Japan for support.

7/29/82: The Organization sent Chris Perez Howard, Robert Underwood and Ron Teheun to the United Nations in New York. They were heard by the Committee of Twenty-four. The delegates delayed a presentation explaining the situation of Guam and asked for a resolution supporting the rights of the indigenous people of Guam.

11/18/82: The Organization's representative, Nerissa Lee, presented the organization's petition on self-determination to the Micronesian Education and Security Conference held at the Legislature's session Hall in Agaña.

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NEWYORK 24 08 1619

LTF
MR. CHELIS PEREZ HOWARD
P.O. BOX 2991 AGANA, 96910

MAP137-7 WISH INFORM YOU THAT COMMITTEE GRANTED YOUR REQUEST FOR
HEARING. AS DISCUSSED IF YOU WISH TO BE HEARD BY THE COMMITTEE I
SUGGEST
YOU ARRIVE IN NEWYORK DURING FIRST WEEK IN AUGUST. REGARDS
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THE QUESTION OF IDENTIFICATION OR, WHO IS INDIGENOUS?

The question of identifying the Chamorro people for purposes of political self-determination has frequently been raised more as an abstract to debate than as a serious question. The Chamorro people are a readily identifiable ethnic, social and historical group. For purposes of self-determination, OPI (R)'s position is that all Chamorros who are currently on Guam are those who have the legitimate right to self-determination freely recognized by the United States after World War II. Politically and historically reliable sources of data are as follows:

1. The 1940 U.S. Census
2. The 1948 U.S. Navy Census
3. The 1950 U.S. Census
4. Those who obtained citizenship through the Organic Act.

In all the above, those individuals who were clearly Chamorro or Guamanians are clearly identified. The direct descendants of these individuals also possess the right of self-determination. Chamorros who currently live off-island could reclaim, this right by establishing residence on Guam.

GUAM HYMN

The Guam Hymn was composed by Ramon Mansalay Sablan in 1930. The Chamorro version was translated by Legitimae L.G. Urralain in 1974.

(Chamorro)	(English)
Fenebger Chamorro, Puri lano-ia, Kama! fitecure-ria G' tobi l'agit, Pera l'one, Pera l' glori, Abian l' lei, Sin peart.	Stand ye, Guamanians For your country And sing her praises From shores to shores For her honor For her glory Exalt our island Forever more.
G' Todu! temoro J'ees para l'ha Yen glori l' angat Na bendicion, Koma l' pelagu, Na bantalu' hani, Y'ee protebi I l'ain Guam.	May everlasting Peace reign o'er us May heaven's blessing To us come Asking all parts Do not forsake us God protect Our island, Guam.

12/21/82: Chris Perez Howard stepped down as Chairman and Hope A. Cristobal was elected Chairman. Ron Teitman remained as Corresponding Secretary, Maria Teitman was Voted Recording Secretary and Nellae Lee was voted Treasurer.

12/20/82: Three OPI(R) members visited with Governor R.J. Bordallo in his Transition Office in hopes of establishing communication on the Chamorro self-determination issue. A copy of OPI(R)'s position and presentation to the United Nations was given to the Governor. One important suggestion made to the Governor was that the question of who is indigenous can be readily requested from the U.S. Congress.

2/16/82: Bill 100 was heard by the Legislature's Committee on Justice, Federal, Foreign and Legal Affairs. OPI(R) Chairman gave a written testimony against the Bill and attached a copy of OPI(R)'s presentation to the United Nations.

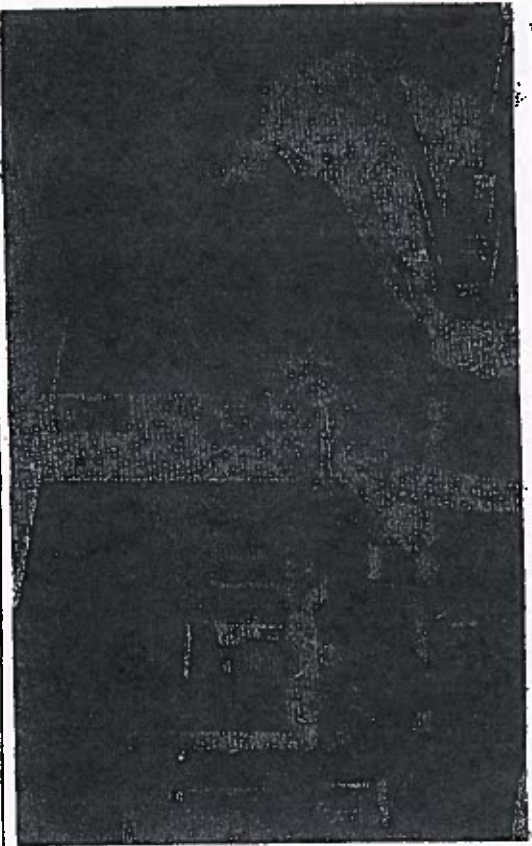
DISCRIMINATION

The central position of OPI(R) is that self-determination is the legal right of a people that has historically been denied the right to freely choose their political future. Such a right does not belong to pieces of land, but to people. It is a right that is inalienable meaning that it cannot be bought, sold or transferred. To allow any individual freedom to participate in a self-determination process that was clearly intended for the "Guamanian people" is in fact to discriminate against and violate the rights of the Guamanian people.

Historically, it is Chamorro people who had an anomalous, unclear, relationship to the U.S. Government. The Chamorro people, who were recognized Guamanians in the post World War II period, never participated in a binding plebiscite on their own future. Changing U.S. policies on entry-out to Guam and Congressional decisions about Guam should not impede hinder or discriminate against this inalienable right.

OPI (R) position does not deny anyone any rights, since non-Chamorros were never promised implicitly or overtly a right to Guam's self-determination. This process of self-determination began after World War II and always has been stated in all U.S. and United Nations documents as a right belonging to the Guamanian or Chamorro people.

To discriminate against someone's rights is to recognize that others have a right in the beginning. All for the offense of minor nations in the Pacific rim and the peoples of the islands have begun to or have already exercised their right to self-determination. For these same individuals to now participate in the Chamorro people's right is the clearest and most flagrant form of discrimination.



OPI(R) member Bennett Dunges poses the question of Chamorro right to self-determination at a meeting with Pedro Sanjuan, assistant interior secretary for territorial and international affairs, and Sanjuan aide Chuck Downs at Government House.



Political action chairperson William A. Underwood giving OPI (R) statement at the United Nations accompanied by Chris Perez Howard, former chairperson, and secretary Tom Teahan Jr.

Text of Statement at United Nations

Text of Statement
at United Nations

OPI (R) PRESENTATION TO THE SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION OF THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

A very warm Hale Adal from the people of Guam. We are the official representatives of a group called the Organization of People for Indigenous Rights (OPI-R). Our group's main reason for existence is to insure that the rights of the Chamorro people are understood, respected and, most importantly, honored by the political entities which currently exercise some measure of control or influence over the future of the Chamorro people. These entities are namely the Government of Guam, the Government of the United States and your Committee on behalf of the General Assembly of the United Nations.

There were many alternative paths available to us in structuring our presentation today. We want to emphasize the information, ideas and sentiments which we present are accurate and reflective of a significant portion of the population of Guam. We are also concerned that we do not take up your valuable time by presenting information which is readily available to you. However, we do not wish to miss the important opportunity to present much of the relevant information regarding our position. Consequently, we have organized our presentation into three distinct parts. We hope that you will bear with us while we present to you the Chamorro perspective on the question of political self-determination for Guam. We can assure without exaggeration that it is the perspective of those who are the true people of Guam.

Our presentation is divided as follows:
I. The Chamorro People, Colonization and Self-Determination
II. Obstacles to Chamorro Self-Determination
III. Decolonization and Some Solutions

Pages recognize that this is a particularly emotional time for us and if we appear whiplashed toward anyone, we apologize for it. In advance, it is a particularly critical juncture for us in the history of the Chamorro people and the failure of any attempt to act at this time cannot be forgiven. We believe that this is the best time to present our views on the issue of political self-determination for Guam. We can assure you that we have made a presentation before a United Nations body. We, as individuals, have raised much of the issues which will be further understood.

journey to New York, including the scorn of those who misunderstood our position and those who see us as agitating to undo the harmonious relationship between Guam and the United States. We cannot help but have the feeling that in making this presentation, U.S. government representatives may interpret our statements in a negative light. For many on Guam, the idea of going to the United Nations is seen as dangerous and likely to make the United States Government. Trusting in your good judgment and the characteristic American belief in fair play, we know that all of our goals will be sympathetically understood.

Before we go into the substance of our presentation, we would like to make clear three points upon which we have developed this extended statement. First and foremost, OPI-R is an organization that does not advocate independence or political separation from the United States. As individuals, we have our own preferences and opinions about Guam's future political development. However, the organization is firmly united by one belief. This belief is that political self-determination for Guam is the political right of the people of Guam who have been denied political self-fulfillment for over three hundred years. Self-determination does not believe in isolation. In a non-self-governing territory, respect for the individual's rights is made possible by the existence of colonial structures. Secondly, the organization is not interested in making a blanket statement of the administrative power, the United States of America. The U.S. has given much to Guam and continues to be supportive of the Chamorro people in many ways and indeed we are a democratic nation whose traditions are usually beyond reproach. However, we do feel strongly that there exist certain blind spots about the political self-determination process on Guam as a result of the strong military posture of the U.S. in the Western Pacific. Guam plays a major role in this military presence. Lastly, we are convinced that OPI-R represents a majority opinion of the Chamorro people. If we were not firm in this conviction, we would not have made this journey to New York. The Chamorro people are culturally resistant to express sentiments openly and the means makes is demonstrated by non-commitment or passivity. Consequently, our position may not be the fervently reported in the island's media, from which much of your information about Guam is extracted by your Committee's researchers.

Our trip was made possible by donations from the people of Guam. We continue to receive personal messages of congratulations and support. Furthermore, we are convinced that should your Committee respond positively to our suggestions, more people will appreciate the issue at hand. Whether you recognize it or not, a statement from you on this issue will receive much coverage on Guam and provide a new basis upon which the issue will be further understood.

I. THE CHAMORRO PEOPLE, COLONIZATION AND SELF-DETERMINATION

Over 4,000 years ago the Mariana Islands were settled by a group of people who eventually came to be known as the Chamorros. In their isolation from the rest of the world, the Chamorro people developed a complex social structure and lived in relative harmony with their environment and each other. Their existence was rudely and suddenly disrupted by the discovery of the islands by Spanish explorers and the eventual settlement of their islands by Spaniards. Spanish missionaries came in 1668 and brought a generation of soldiers for the purpose of protection. Thus, the Chamorro people have the distinction of being the first group of Pacific Islanders to be colonized by the West.

In the short thirty year period from 1668 until the end of the seventeenth century, war and new diseases had caused the depopulation of the Mariana Islands to a few thousand natives. Estimates of the pre-colonial population have ranged as high as one hundred thousand for the entire chain. The island was governed as a unit in the Spanish Empire until the Spanish-American War in 1898. During most of Spanish rule over the Mariana Islands, the islands of Guam and Pohn were inhabited, only the islands of Guam and Pohn were inhabited. The natives had been concentrated on those two islands to make them more manageable. Spain was eventually re-populated in the latter part of the 18th century with natives from Guam. The population of the Spanish occupation of the Mariana Islands was a hybrid culture by blending the ancient traditions with Roman Catholicism and the practices of the Hispanic world. However, there was never any doubt that the identity of the Chamorro people remained intact. They were distinct in language and manners, and despite Spanish efforts to the contrary, the people of the Mariana Islands never thought of themselves as Spaniards or as a Hispanic group of people. In fact, one of Spain's last governors lamented the fact that despite over 200 years of Spanish rule, the natives remained very unlike the inhabitants of the rest of the Empire.

At the conclusion of Spanish rule, the Chamorros had remained an identifiable ethnic culture and national group with historical roots to a time long before they were conquered by the Europeans. They denied the fact that they were the first Pacific Islanders to experience the pain of foreign domination.

We present this historical perspective not to inspire you with the story of the survival of a small but proud group of people. This story is repeated in many parts of the world and is not unique in its plot nor its cast of characters. Rather, we present it to you so that you may understand how the forces of colonialism may work on the psychology of an entire people. Without the opportunity to control the social traditions which they had

developed, the Chamorro people have been reduced to a passive role in their own history. We believe that the Chamorro people have the right to determine their own future and to control their own destiny. We believe that the Chamorro people have the right to determine their own future and to control their own destiny. We believe that the Chamorro people have the right to determine their own future and to control their own destiny.

under, the Chamorro people were not merely subjected to the perspective of the outside world. They eventually internalized it. For many generations, the Chamorro people were told that to be Chamorro was to be treacher, ignorant and backward. Moreover, they were advised by foreign historians and administrators with suspect motives, that the Chamorro people did not in fact exist. The people of Guam were told that the Chamorro had been effaced from the face of the earth and, unfortunately, many of our people believed it.

Despite academic evidence to the contrary and, more importantly, the sheer tenacity of a group of people who continued to defiantly proclaim themselves to be Chamorros, many refuse to acknowledge the existence of the Chamorro people. Some of us are beginning to harbor the suspicion that the denial of the existence of the Chamorro people is calculated to establish the shield of their inalienable rights. It has certainly made some of the past colonial practices regarding the inalienability to Chamorro language and culture seeler since some doubt were cast on the very existence of the Chamorro people.

The islands and the Chamorro people were divided after the Spanish-American War with Spain ceding Guam to the United States and selling the remainder of the island chain to Germany. Germany subsequently lost the Northern Mariana Islands to Japan as a League of Nations Mandate as a result of World War I. The United States eventually occupied the Northern Mariana Islands as part of the Trust Territory of the Pacific Islands subsequent to World War II.

Although the people were split apart by the fumes of international politics, the Chamorros were a unified cultural and racial group with many individuals having close relatives on the other side of the political boundary. The pre-World War II Naval Government of Guam recognized the identity of the Chamorro people regardless of their location. The Japanese and American administrators of the Northern Mariana Islands. The Chamorros were the legitimate heirs of the political destiny of the islands which they inhabited and even the most important nations in past history have recognized their distinct status and legitimate right to seek, albeit begrudgingly.

For Guam, political life under the U.S. umbrella meant, unconsciously, neglect and hardship to both human and civil rights for most of the time since 1898. Guam languished under a Naval Government from 1898 to 1950, except for a three year occupation by Japanese forces during World War II. The region of Chamorro before World War II is best characterized by the Navy Department's Court Martial Report No. 1923 issued on April 30, 1923. It reads:

While a native of Guam owns perpetual allegiance to the United States he is not a citizen thereof nor is he an alien and there are no provisions under which he may become a citizen of the

United States by naturalization.

While this action gave the Chamorro people no particular status, it is still instructive. If nothing else, it recognized that the Chamorros were an identifiable group for political purposes. Decisions regarding the political status of Guam were obviously questions involving the future of the native inhabitants.

This concept had been made clear earlier in the treaty which ceded Guam to the United States. In the Treaty of Peace of 1898, the following provision applied to Guam:

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

Since 1898, the ultimate political status of Guam has yet to be decided either by Congressional action or otherwise.

During the course of naval rule over Guam, the U.S. relationship to the people of Guam was one of guardianship to ward. This fiduciary relationship can be seen in the following comments drawn from various documents regarding Guam:

The Secretary of the Navy will take such steps as are necessary to give (the Territory of Guam) necessary protection and government. (President's Executive Order No. 1084, 1939)

As a result of the unique nature of the Navy in the island of Guam, the natives... have been considered wards of the Navy... The inhabitants of the island have been under the special and able protection of the Navy Department.

(H.R. Report No. 1126, letter from Acting Secretary of the Navy H. Stovoe Hensel to Speaker Sam Rayburn, June 8, 1949)

The general policy of the Navy Government is to guard (the inhabitants of Guam) from exploitation by outsiders and to protect their lands... They are not self-sustaining and require not only federal economic assistance but also careful training and supervision from their paternal island government. (Letter of Secretary of the Navy Claude Swenson to U.S. Senate, 1937)

It is clear from these documents that the U.S. recognized their obligations to the people of Guam as a dependent people. Moreover, it is also rather obvious that the terms inhabitants of Guam, people of Guam, natives of Guam and the Chamorro people are all synonymous. Both in official reports and in common usage, the people of Guam were the Chamorros and no one else.

Out of the ashes of World War II, the world was swept by new trends which recognized the sanctity of self-determination and which brought new meaning to the concept of human rights. Although these ideas have not always prevailed, many of them are embodied in the United Nations Charter, one of the legacies of World War II. Both new nations and the old colonial powers

recognized that dependent peoples should no longer be subjected to the whims of the nations which governed them. These new ideas gave birth to the Trust Territory system and the Declaration on Non-Self-Governing Territories. Recognizing its responsibility on the matter, the U.S. voluntarily placed Guam on the list of non-self governing territories in 1946. By Guam's continued presence on that list, the U.S. continues to recognize the existence of a dependent status for the people of Guam and acknowledges their self-determination has not yet been achieved.

In the administering power's first report to the United Nations in 1946, the report describes the people of Guam in the following manner:

People... The natives of Guam are called Chamorros. The origin of the ancient Chamorro is obscure, but it is probable that they were a group that became detached and isolated in the Mariana Islands from the proto-Malays (sic) in their migration eastward from the mainland of Asia.

Later in the report, the U.S. states that the 1901 "Guam Census" population was 8,650 and that the 1946 Guamanian population was 22,689. The 1946 report further states that, although the Guamanian population is English, "they continue to make no comment in English, 'they continue to use the ancient Chamorro language' (It is not the old status of the 'inhabitants of Guam' as natives of the United States).

On the basis of the initial report by the U.S. to the United Nations, it is obvious that the people of Guam being discussed for the purpose of fulfilling the obligation under Article 79 are, in fact, the Chamorro people. The term Guamanian, which was invented after World War II, was and is synonymous with the term Chamorro. Today, the common use of Guamanian as being an ethnic matter (as being identical with Chamorro) is still prevalent on Guam. Of even greater significance, the fiduciary status (trusteeship) had imposed the non-self-governing status as described under Article 79. This would not permit now that the Charter is a treaty and as such, interpreting as law within the U.S. as provided for in the U.S. Constitution.

Part of the difficulty of those who wish to pursue legalistic arguments, has been the term Guamanian. After World War II, the term Chamorro fell into disuse for official purposes and the term Guamanian was used instead. In recent years, the term Chamorro has become increasingly popular. The federal government still utilizes the term Guamanian as a colonial catch term for Chamorro. In the 1980 Federal census, Guamanians were included as the term encompassing those who are Chamorro (except for the Northern Mariana Chamorro). It is thus that U. I. Resolutions and U. S. Reports make it clear what is meant by the term Guamanian people. From the historical record, it is obvious that it is the Chamorro people that are in a dependent status to

the U.S. and consequently, have not yet engaged in an act of self-determination.

The document which most clearly acknowledges the separate political existence of the Chamorro people is the Organic Act of 1950. When it was first passed by the U.S. Congress, it included a provision which gave Chamorro preference in government promotion and appointments. Aside from being further evidence of the fiduciary relationship, it gave legitimacy to the notion of special rights for the natives of Guam. It read:

The Governor... in making appointments and promotions, preference shall be given to qualified persons of Guamanian ancestry. With a view to insuring the fullest participation of Guamanians in the Government of Guam, opportunities for higher education and financial training facilities shall be provided to qualified persons of Guamanian ancestry.

In a more significant part of the Organic Act, the U.S. citizenship provision declared the people to be U.S. citizens according to two criteria. One required being native-born and the other required ancestry on Guam from before 1898. Felling that it amended the Nationality Act of 1940 to include a new subparagraph "Guamanian and persons of Guamanian descent."

In the only Congressional act that ever openly abjured the political status of Guam, it is clear that it was on behalf of the Chamorro people that legislation was being passed. However, they were officially called the Guamanian people. It is instructive to note that despite the Organic Act, the U.S. continued to support reports on Guam to the United Nations on the fact that full self-determination had yet to be exercised. Indeed, how could such an assertion be made when the Organic Act originated in the halls of the U.S. Congress and was not even given the benefit of a parliamentary referendum.

Since 1950, both provisions have been repealed from the Organic Act without the knowledge or agreement of the people of Guam. However, this does not alter the reality that the Chamorros are a distinct national people with political legitimacy to pursue self-determination.

Guam has changed significantly since 1950. The Chamorro proportion of the civilian population has continued to drop rapidly to the point where the natives are approximately 50% of the population. The fact that the U.S. government controls every inch of the territory from foreign nations through its intelligence and militarization (spies and saboteurs) has taken from the U.S. through the use of U.S. citizens, to travel freely within U.S. borders, has contributed to the reality. However, the application of U.S. Supreme Court decisions regarding residency for voting has meant that any U.S. citizen can come to vote in any Guam election as soon as they get off the plane.

Historically, many U.S. citizens came to Guam as a result of military activities and decided to

say. The U.S. military also employed large numbers of Filipino and other aliens in constructing the numerous military bases built after World War II. Huge camps of foreign workers and the application of U.S. immigration laws to Guam has meant a constant stream of immigrants which threaten to make Chamorro strangers in their own land. Many of the newcomers to Guam have made fine contributions to the island and have joined in areas and harmony with the Chamorro people. We do not wish to deny them the respect and dignity which people all over the world deserve by being a fellow human being. However, we do ask that our right to determine our political destiny be recognized and that as long as we have not exercised our option, Guam's ultimate status has yet to be determined. An inherent right to self-determination has yet to be exercised fully on Guam because the people of Guam (the Chamorro people) have been denied their rights in the past. Irrigated citizens, U.S. citizens from Wisconsin or Indiana have no right to self-determination of Guam. It is illogical and unfair to allow them to move to Guam and participate in Guam's self-determination because the Chamorro people have yet to exercise their self-determination.

One of the greatest horrors of history in the Pacific is the fact that the U.S. has allowed other Chamorros to exercise their right to self-determination while Guam's Chamorros wait. The Northern Hemisphere has now become a U.S. Colonization. It is problematic whether you will ever receive a report from the U.S. on their political, social and economic progress since the Trustingship of the Pacific is finally dissolved. If the U.S. decides not to submit any reports, they may have legal justification. The people of the Northern Hemisphere have decided to legally backing plebiscites where their free will ultimately be. In their elections, only the natives of the Islands were allowed to vote. It is a tragic irony indeed that due to the "benefit" of colored power politics, one set of Chamorros exercised their right to self-determination whereas the Chamorros of Guam may be sidelined up in some other process. The greatest irony of all is that both groups of Chamorros were administered by the same nation.

We have given you this information regarding the history of the Chamorro people not just for the purpose of providing a historical framework. It is an important component of our beliefs regarding the right to self-determination. Our organization believes that the concept of "self-determination" belongs to people who have a special "historical relationship to a given area. It is crucial for the powers that be to recognize that people have the right to self-determination, not people of land. Land means the people when it can be determined through reasonable interpretation of historical factors that a geographical area is a special political entity to the majority. Question, for the sake of self-determination, it is important to say that the island has the right to self-determination because it is a dependency of the United States and therefore is

under. Wake Island has no inhabitants, no inhabitants with a special relationship to the island and no history, because it has no people to remember it. All of the individuals who currently live on Wake are there because of American ownership and sovereignty, not in spite of it. This was clearly acknowledged in President Carter's administration's Task Force Report on the territories in 1979. It read:

Also excluded are those islands over which the United States exercises sovereignty, but which have no native populations, e.g., Phoenix, Wake, Midway. They are "territories" in a number of ways, but they represent no policy problems of the sort dealt with herein.

II. EFFORTS TO EXERCISE GUAM'S POLITICAL SELF-DETERMINATION

Since the passage of the Organic Act in 1950, the administering power has not taken any major steps towards the resolution of the question of self-determination for Guam. Instead, it has been curiously cautious and only under the Carter administration has there been an attempt to draft a comprehensive policy statement on the political status of America's off-shore territories. However, even this commitment to self-determination was limited. In Carter's message to the U.S. Congress on February 14, 1980, the former President stated:

In keeping with our fundamental policy of self-determination, all efforts for peaceful development should be open to the people of the territories as they see fit. Changes are implemented when economically feasible and in a manner that does not compromise the national security of the United States.

The administering power has taken three steps which affect the political development of the island, but do not directly address the question of political status and self-determination. These were the granting of elective governorship in 1969, the creation of the non-voting Guam delegate to the U.S. Congress in 1972 and the authorization given to the island to write a constitution in 1977. The latter two had an enabling act (P.L. 94-484) which narrowly defined the powers that a Guam Constitution would have. Among the other restrictions were that the U.S. should write the constitution of U.S. sovereignty and the establishment of a three branch system of government patterned after the American model. A Constitution drafted under such restrictions, even if approved by the people, could hardly be called an exercise in self-determination.

The administering power has not taken any major steps towards largely recognizing Guam's inherent right to self-determination nor has it encouraged the political status process. Instead, it has been the Government of Guam which has

taken significant steps toward the resolution of political status and the exercise of self-determination. Spurred on by political developments in the surrounding islands, the Guam Legislature established the Task Force on Guam Commission in April 1973. In P.L. 12-17, the Guam Legislature took it upon itself to state that various alternatives were available to Guam, including incorporation with another nation, independent nationhood with another nation, commonwealth and deposed free state. The non-voting Guam delegate appropriated \$180,000 from the Government of Guam operating revenues to carry out the task of investigating the status question. During the course of their efforts, the first political status commission under the direction of Guam Senator Frank Uyen issued numerous bulletins which discussed the details of self-determination to the Guamanian people. Passed within a historical framework, this could have meant only the Chamorro people. In one of Senator Uyen's articles, he urged that the granting of U.S. citizenship "has merely served to deny us the right to seek our own constitution by subjecting us to the provisions of the U.S. Constitution and the sovereignty of the U.S. Congress."

One year later, the Guam Legislature passed the first numerous resolutions regarding political status and self-determination. Resolution 326 made special mention of the Special Committee of 24 and U.N. Resolution 1514 of December 14, 1960. The resolution not only endorsed the Legislature's support to the Special Committee's report on Guam in 1974, it requested the U.S. Government to allow the Special Committee to come to Guam for the purpose of establishing a dialogue on the issue of political status. In the 13th Guam Legislature, the Political Status Commission was reconstituted to reflect the Legislature's new membership. Acting again on its own, the Government of Guam submitted a referendum to accompany the primary election in September 1976. The results were not binding on anyone and since the U.S. did not authorize it, the administering power was not obligated to respond in any fashion. Furthermore, the administering power ignored numerous requests from Government of Guam officials to discuss and negotiate the question of political status.

Instead, the U.S. Congress authorized the development of the Guam Constitution under the provision of a narrow enabling act. In the latter situation, it became clear that the opponents wanted a resolution of the political status question. After the sound defeat of the document by 5-1 margin, the President of the Constitutional Convention, Carl Gutierrez, acknowledged that the status question led to the document's defeat. Governor Paul Chao proclaimed that the defeat indicated that the people are "eagerly to consider our status with the United States." The administering power's response to the merchants to fill the promise of self-

determination was the aforementioned White House Task Force Report issued in 1975. Interestingly, the Report acknowledged the significance of the U.N. Charter to the U.S. territories in terms of the right to self-determination. However, while acknowledging the U.S. responsibilities to its dependent peoples, it studiously avoided addressing binding plebiscites and instead offered only the possibility of discussion. Moreover, it seemed to foreclose the possibility of a referendum and integration into the American system and independence in relationship to the latter, the report read that "independence, at least for Guam, would be so disadvantageous to the United States as to raise the possibility of U.S. resistance."

As the issue of self-determination became more serious, the question of when self-determination was to take place became equally serious. A Pacific Daily News Editorial on October 2, 1978 asked the question of who the people of Guam are? Although the answer for purposes of self-determination was hinted at, it refused to take a clear stand. At least the question had surfaced openly. Continued in-attention in the 70's had made the issue important, but voidable.

It was in this situation that the latest step to resolve the issue of self-determination was suggested by the Government of Guam. In 1980, the local legislature's P.L. 5-125 established the Commission on Self-Determination and appropriated \$150,000 General Commission operating funds. Although there are doubts about the value of the agency advanced in the favor for the resolution of Guam's political status, it represents yet another attempt by the Government of Guam to take unilateral action.

In the Commission's first meeting in 1980, one of the members, Senator Richard Tabbao, asked about the right of the Chamorro people to determine their fate. The other members were not ready to take up the question and Senator Tabbao refused to attend any other meetings in person. Tabbao, as a former Director of the Office of Territories in the U.S. Department of Interior in the early 60's, was well acquainted with the issue of self-determination.

The Commission on Self-Determination ended the question of Chamorro self-determination until May 21, 1981 when it was openly dismissed at a Commission meeting. Two of the bills developed under the aegis of the Commission recommended that the law regarding self-determination be clearly specific in its definition of the people of Guam. Despite the fact that some opponents attacked the subject, it became clear that the right to self-determination was becoming a major issue in its own right, occasionally covering the particular options which the planned "debate" was offering.

In those meeting after which meetings, formal advances of the Chamorro right to self-determination presented their case. Eventually, the Commission on Self-Determination recommended to the Guam Legislature on November

12, 1982 that the "indigenous right to self-determination" be recognized. However, because of the political risks of such a position in the election for governorship and legislative seats in 1982, the very same politicians who supported the Chamorro right to self-determination began to soft-pedal their stance immediately after.

Even the Pacific Daily News which was suspicious in the beginning began to understand the issue in a historic framework. On November 18, 1981, editor Joe Murphy wrote, "Each people should, in my opinion, have a chance to vote for their own self-determination. The Guamanian people have never had that chance. The U.S. moved into Guam with the USS Charleston, a gang of cannon, and tons of Marines and physically took the island. That takeover was endorsed later by the Treaty of Paris. The island people have never had an opportunity to vote for self-determination, or to be Americans." From the island's only daily newspaper, the social definition of Guamanian is obvious. It means the Chamorro people.

The bill to recognize the right of the Chamorro people to self-determination died for lack of majority support in the Guam Legislature's Committee on Criminal Justice on January 19, a scant eleven days prior to the scheduled "debate". The following day, attempts to bring the bill to the floor proved futile. Our organization consequently filed motions in the Superior Court of Guam and U.S. District Court in order to postpone the election. Interestingly, the Courts refused the motion for legal technicalities. Our attorney argued that the "pact" was not binding since it was not authorized by the U.S. Congress, the body which has U.S. Constitutional jurisdiction over American territories.

OPI-R also sent a two man delegation to the U.K. Office in Tokyo under the mistaken assumption that such office was more than an information center. We expressed our dissatisfaction with Guam's political status process to your Committee at that time through telegrams. We also sent a telegram to the President of the United States.

The election occurred on January 30 and only 27.2% of the registered voters participated. In our opinion, two factors contributed to this low turnout in an area which always brings out 80% of the electorate in elections. The first was the general confusion about the political status options which was prevalent among the population and the second was the "indigenous right" to self-determination issue. Although there was no organized boycott of the election, it was clear that the people wanted a firm decision on the right of the Chamorro to self-determination and needed further clarification of the political status options. The grassroots leaders of Guam, the village committees, attempted to make this clear to the Guam Legislature. Essentially the same statement has been made by the Commissioners to this Committee. We are submitting that statement along with this report. It is signed by all but one of the village committees.

political status, the people of Guam through their elected representatives have asked for negotiations, consultations or statements relative to the political self-determination of Guam. The Guam Legislature has passed numerous resolutions during the administrations of Presidents Wilson, Ford, Carter and Reagan relative to political self-determination. In return, the U.S. has acknowledged only the receipt of such documents, but never made a firm commitment to get the process underway.

Until such time as the administering power recognizes openly the right of Chamorro self-determination and engages in serious discussions of the topic, nothing can occur. The Commission on Self-Determination on Guam has fallen on hard times and is currently inactive. It has lost the financial support of the Legislature and the runoff election scheduled for September is in question. The reasons for this unfortunate reality are many and varied. However, the overriding condition is the fact that the United States has not lived up to its responsibilities by recognizing legally, in accordance with its own Constitutional provisions, the Chamorro right to self-determination. Moreover, it has not educated the people on the options available to them and has not assisted the process in a serious and open manner. The administering power may hide behind the logic that it does not wish to unduly interfere in the political status process on Guam. However, the reality is that the U.S. has Constitutional provisions for such an eventuality and the U.S. is obligated to facilitate the process by its own democratic ethos and signature to the U.N. Charter.

III. OBSTACLES TO CHAMORRO SELF-DETERMINATION AND SOME SOLUTIONS

In this section, we will outline the main impediments to the free and unfettered exercise of Chamorro self-determination.

The most significant obstacle to the right of the Chamorro people to engage in an act of self-determination is the lack of seriousness attached to the question by the administering power. Under the Treaty of Paris, and Article Four of the U.S. Constitution, the U.S. Congress has plenary power over the territories of United States. Their legal jurisdiction on the issue is not in dispute. Rather, we are hopeful that they exercise it by recognizing the right to self-determination of the people of Guam. In keeping with the provisions of the United Nations' Charter, Article 73, such recognition should be specifically related to the people who are historically a non-self governing people. This cannot be interpreted in any responsible fashion as meaning any other people than the Chamorros when discussing the case of Guam. Thus, based on documented and reports issued by the administering power itself, to state the administering power has "laid 30" takes the political status process seriously by failing to legal-

ly recognize this inherent right in accordance with its own constitutional provisions.

Part of the problem is that the island of Guam simply does not have enough presence in the psychology of American politics to require serious attention. Outside of the Pentagon, there are only a few people in Washington circles who are actively concerned about Guam's future. It is simply too small and too insignificant to worry about. Yet, it is precisely for these kind of reasons that the Non-Self Governing Territories system was organized. The review process which you represent is designed to give the small dependent people of the world an opportunity to be taken with greater seriousness.

Of even greater significance is the presence of military bases on Guam. Guam's inaccessibility to the world is not that of an island society struggling to survive as a political and social entity. Rather, it is based up with overwhelming reality of the presence of the U.S. military in large numbers. Your Committee has taken the stand that the presence of military bases should not be an impediment to the exercise of self-determination on Guam. Yet, any serious student of politics would recognize that it ultimately has a great deal of bearing on the question.

Approximately one-third of Guam's current acreage is devoted in military purposes. Guam represents an especially important component of American's advance defense posture on the Pacific and extension of political and military influence in the region. Viewed from the U.S. point of view, it would be foolhardy to jeopardize all the current benefits which accrue to the nation's foreign and military policy for the sake of Chamorro self-determination. Even if the eventual outcome were sure to be favorable, such a risk would simply be unwise to take for the sake of political principle. For example, the slim possibility of Guam's independence was categorically rejected on this basis by the Wright House Task Force Report in 1978 when it suggested that independence would be resisted by the U.S. It was noted in the report that this was especially applicable to Guam's case because of its strategic location. Geography and international intrigue have played a crucial role on the Chamorro people. By virtue of having been born in a strategic place of property, they apparently must be denied the right to self-determination.

The administering power has also contributed to the general state of confusion on Guam by failing miserably in the past to advise the Chamorro people of their inherent right to self-determination. The administering power has studiously avoided the question of any inherent or residual sovereignty on the part of the Chamorro people, by discussing self-government within the American political structure as if it were a foreign concept that the island must always forego. This is a part of the American political framework, such as the Organic Act and the enabling legislation for the Guam Constitution of 1977 are indicators of this tendency. To believe legally in

the fashion and then to make pronouncements to this world body that Guam does have a right to full self-determination is clearly contradictory and confusing.

The people of Guam have never been apprised of their rights under the U.N. Charter nor has the U.S. government made it abundantly clear what their obligations are. Consequently, all discussions of political status are clouded in a mass of contradictory statements and announcements about the future. The end result has been a variety of unilateral actions on the part of the Government of Guam and proposals to the federal government. This has resulted in the ability to have been nullified. It is time for anyone to assume that the Government of Guam can decide for itself the parameters of the political status process and then implement it without the open and active concurrence and support of the U.S. government.

In the last part of our presentation, we wish to present some ideas as to how the process of Chamorro self-determination can truly be undertaken with the seriousness and concern that it deserves. Please bear in mind that the rather haphazard treatment that Guam has received from the U.S. in the area of political status has led to our presence here today and made the following steps necessary in our opinion.

In view of the lack of federal encouragement to the political status process in Guam and the fact that the U.S. legal authority is needed to make the process a serious and serious one, your Committee should encourage the exercising power to:

Authorize and make legal a plebiscite of self-determination in accordance with the treaty obligations of the U.S. by being a signator to the U.N. in accordance with U.S. Congressional plenary power over the territories as outlined in the U.S. Constitution.

In view of the failure of the administering power to make clear to the people of Guam their inherent right to self-determination and inform them of their status options and U.N. statements on the issue, your Committee should encourage the exercising power to:

Fund and assist in conducting a thorough educational campaign on the available status options.

In view of the historical record of Guam, the establishment of a scholarly relationship between the Chamorro and the U.S. and the countless documents which indicate that the Chamorro people refused to as having a right to self-

determination are in fact the Chamorro people, your Committee should encourage the administering power to:

That all leading plebiscite and referendum relative to the question of Guam's ultimate political status must recognize that it is the Chamorro people who have not yet engaged in self-determination and it is only they who shall be allowed to participate.

We urge the strongest possible terms in this matter and fully believe that no political status of Guam which does not proceed from an act of self-determination by the Chamorro people alone is valid.

Our last recommendation relates to the operations of your Committee. In view of the fact that the people of Guam are generally confused and uninformed about the role of the United Nations, your committee should:

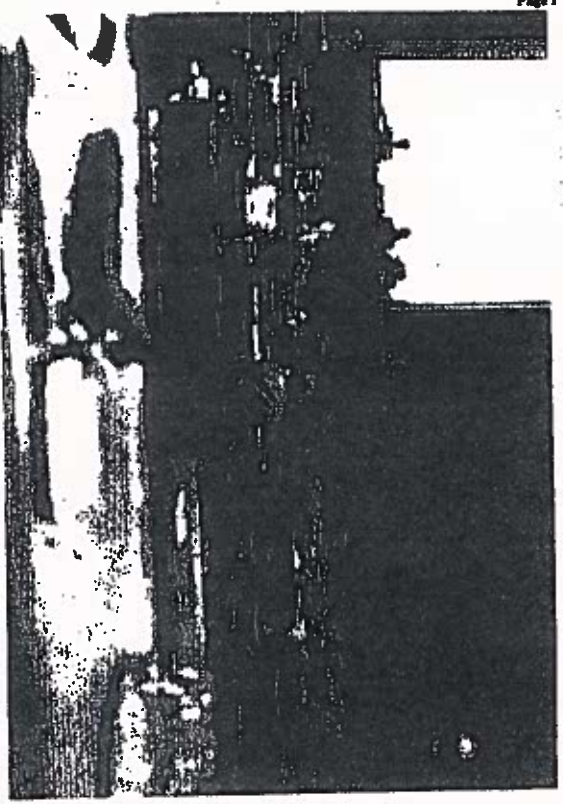
Make every effort to visit Guam and to advertise your availability to hear the concerns of individuals, organizations and perspectives from whatever source on the political and social development of Guam.

We recognize that the lengthy statement contains many items of information which you may already have. However, we felt compelled to deliver our statement in the manner so that you can understand the depths of our sentiments regarding the issue. We have not come to you as a court of last resort. Instead, we come as representatives of a small group of people which Article 73 is designed to protect. We have not a presentation has made the point empty well that self-determination thrives in people and not land. In the case of Guam, those people are obviously the Chamorro people.

In seochiy' harnyo na an rectorias / direction / Chamorro. For faooc, na' farnama' / I man- Chamorro changes your u mactatanga si lakala na marnar' hafa / decision-the part / land' - nfa. Si Yu'os nar' sar' por / attention-mnyu you of V' / os infatohensapocid.

Thank you and we will happily to answer any questions.

We urge you to recognize the rights of the Chamorro people. Please show the Chamorro people the opportunity to determine in a complete freedom their destiny for their land. Thank you for the attention you have given us and may God bless you! - English translation of the Chamorro.]



Delegation of Committee of 24 hear OPIRI's statement at United Nations July 21, 1982

Delegation of 24, July 21, 1982, United Nations
 OPIRI's statement at United Nations
 July 21, 1982

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 July 21, 1982

TESTIMONY BY THE YOUNG MEN'S LEAGUE OF GUAM

IN SUPPORT OF THE FOLLOWING:

**RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD
TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN
DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.**

RESOLUTION NO. 51-34

**RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO
A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE
GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT
PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE
CHAMORRO LAND TRUST ACT.**

RESOLUTION NO. 52-34

SUBMITTED BY:

**BROTHER BOB PELKEY
PRESIDENT**

FRIDAY, MARCH 17, 2017

GI FINO'-TA, "Hafa Adai" Yan Misin Lago' Na Ogga'an, Ge'heLo' Sinadora
Therese TerLaje Yan Todos Hamyo, I Manma'Gas I Tano'!,

MANGGAIGE HAM GUINI, I INETNON LALAHEN GUAHAN, KONRESPETU YAN
TININA, PARA HAGU SAINA GE'HELO' KUMITE SINADORA THERESE TERLAJE ,
PAREHU I MAGA'LAHEN GUAHAN EDDIE BAZA CALVO, YAN TODU I
MANSINADOT YAN MANSINADORA NI' MANGGAIGE YAN MANANNOK PA'GO,
YAN PARA TODU I MANAOTAO TANO', NA PARA BA IN FANACHU PARA DIRECHO-
TA, I RISULASION SINGUENTAI UNU-TRENTAI KUATTRO (51-34) YAN PAREHU
RISULASION SINGUENTAI DOS -TRENTAI KUATTRO (52-34).

MANDANNA' HIT PA'GO, KUMU UN HINANAO, GI UN SAKMAN, GI UN CHALAN,
YAN KUMU UN TAOTAOGUES, NA MUNGNGA HIT KONFOTME, YA TA KONTRA I
DIPATTMENTON HUSTISIAN ESTADOS UNIDOS NI' PARA U MA AMOT HIT NI'
MANA'I-TA TANO', GINEN I MANAINA-TA, NI' HAGAS IYO-TA, CHAGOGOGO'
TATTE GI ANSIANU NA TIEMPO.

HAMI NI' INETNON LALAHEN GUAHAN, MANATACHU HAM NU I RISULASION
NUMIRU SINGKUENTAI UNU-TRENTAI KUATTRO (51-34) YAN SINGUENTAI DOS-
TRENTAI KUATTRO (52-34) NA TA KONTRA I DISISION I KOTTEN DESTRI-
TAN GUAHAN YAN PARA IN DIFENDE I DIRECHO-TA, I TANO'-TA GINEN I ASAINA
YU'OS TATA, PARA TODU I MANAOTAO TANO' NI' MANMALOFFAN ANTES, PA'GO
YAN I MANMAMAILA' ! MANHITA MANACHU MO'NA, TA FANACHU TODU! TA
FANOHGE CHAMORU!

Gi fino Inglaterra -

Madame Chair and Members of Guam's Legislature.

My name is Bob Pelkey. I am the President of the Young Men's League of Guam today's marks the exact day and month 100 years ago when the Young Men's League of Guam was legally incorporated on Guam. I am here on behalf the League and all those who've come before me in the past 100 years of our rich history as the region's oldest and only Chamorro fraternity in order to register not just our support for the Guam Legislature's efforts to appeal the decision of the United States District Court on Guam as well as to thwart any threats against our Chamorro Nation, foreign or domestic but also to enter into the record the League's affirmation of the rights of the Chamorro People and all other Indigenous Peoples throughout the world.

My Brothers and I are here to remind anyone and everyone listening that the indigenous Chamorro People have suffered from historical injustices spanning centuries and that the ruling by the US District Court on Guam is yet another straw upon the back of our colonized people.

Further, the threat by the United States Department of Justice is but another splinter in the eyes of our people who toil day in and day out to sustain a living, to live in peace, to marry, love and raise a family free of political interference and imperial oppression.

To the former, the issue of Our Chamorro Right to Self-Determination...

1. the United States, through its military, suppressed our language and our culture in its early occupation of the island,... worst, the regime at the time dictated how we should speak *and* dress... the naval leadership at the time went so far as to suppress one's desire to whistle, walk at night, celebrate the feast of a patron saintⁱ or – as the League may attest first-hand during its inception - to *FREELY CONGREGATE!*
2. And, yet, here we are... 117 years later and the same United States – only this time through another separate branch of its government – chooses to further suppress our right to self-determination, an *inherent right* as we see it 'granted to us not by man or any one government but by Our Creator, by God himself.' The right to self-determination is in conformance with international law and is acknowledged and affirmed by the United Nations whose charter and resolutions advocates for the fundamental importance of indigenous peoples to freely determine their political status and pursue their economic, social and cultural development.
3. Madame Chair and members of Guam's Legislature, from the onset of ocean travel that enabled other peoples to visit the Marianas we, as a Chamorro People, have always welcomed our guests. As history is our witness, the annals are rich with evidence and historical account that we were a strong and loving and generous people.

The fine qualities of our People, achievements and practices of our Great Chamorro Nation were known by some for hundreds of years since foreigners were first able to record such observations in their books using their languages... but it's important to note

that what was recently observed is what has been deeply held and widely practiced within our Great Chamorro Nation for thousands of years.

My point: our People's love and hospitality was freely given and we never took from our guests. This was true then and it is true today.

Unfortunately, what was true then remains true today in terms of how the United States has historically treated its overseas occupied territory of Guam. What was true in the Spanish-American War was true in World War I and World II. It's as true as the recent US District Court Decision last week, some 70 years following the war. As the world becomes smaller and international affairs become more tightly interwoven and well curated in the media, educational materials, monetary exchanges and court systems, has our more perfectly forming union learned nothing since?

My point: the only lesson we've derived from the United States District Court's decision is that Our People's love, hospitality *and* patriotism is freely given yet the United States continues to take and take, and take.

They took our lands,
stripped us of our culture,
diluted our identity and now
they are attempting to take away that one God given right to freely decide for ourselves what we as a Chamorro People would like to do for ourselves and our families devoid of imperial political interference.

We may decide to become a part of the Union with all of the rights and privileges appertaining thereto.

We may decide to become independent yet freely associate.

Whatever path it is... let us choose.

Let a People who have never had the right to determine their path for the past 400 years, a period of time spanning the Spanish Conquest on through a century of American Imperialism, have that *one* opportunity to exercise the right to choose how they would like to live out their lives.

Madame Chair and members of Guam's Legislature, now to the latter, the threat by the U.S. Department of Justice against our People for using our lands...

1. The League finds it ironic that the U.S. Department of Justice has issued a written statement expressing its concern for certain alleged injustices about how the People of Guam, through its governing structures, have decided to use government lands when, in fact, it should be chiefly concerned with how the United States itself has ill acquired native lands thereby dispossessing an indigenous People for well over half a century.

The League finds it ironic that the U.S. Department of Justice has issued a written statement expressing its concern for certain alleged injustices carried out by the People of Guam when, in fact, there is a litany of historical injustices by the United States upon our natural resources, environment and our People. It is our opinion that Such Crimes Against Humanity and Crimes Against the Environment may, perhaps, make for a more effective use of limited federal resources on issues that have greater implications throughout America most especially upon our Brothers and Sisters in other United States possessions.

Madame Chair and members of Guam's Legislature the League stands with you in pushing back against the United States on these debased inconsequential charges against the Chamorro People and our use of Chamorro Lands.

2. To anyone and everyone listening, the League sees it fit to remind the world that the Chamorro People were dispossessed of their lands and resources which prevented our People from further developing ourselves. Prior to the imperial conquest of our island we were self-governing. There was trade, health care, education, recreation and defense, for ourselves. Consistent with colonial conquest, with the occupation of our island by the United States came the possession of our lands without our consent for the purposes of war. Following the war, when the United States military no longer saw a need to use our entire island to barracks their soldiers, store their tanks or launch as many of their squadrons from Guam they returned what was deemed 'excess' properties to the local government.

For the record, what may have been deemed excess by the occupying nation has always been deemed as sufficient and necessary for our use and by our standards; for it was upon those lands and in those streams and springs and from those ocean waters that we raised livestock, harvested crop, caught our shrimp and fish, drank our water, washed our bodies and recreated with our families.

3. Madame Chair and members of Guam's Legislature the League finds it ironic that a representative from the United States Department of Justice Civil Rights Division finds suit that the Chamorro Land Trust Act discriminates on the basis of race or national origin, in violation of the Fair Housing Act, by limiting certain housing-related benefits to persons who are native Chamorros.

What of the Navy and Air Force lands and military housing? Are we, the original landowners, and native Chamorros not being discriminated against based on our race and prohibited access to such lands, housing, and natural resources?

It is the League's opinion that this is not an issue of housing and it was never their land.

In closing, the Young Men's League of Guam is in support of Guam's Legislature consideration to pass Resolutions 51 and 52.

Further, the Young Men's League of Guam further imparts this message to this body in your quest to preserve, protect and advance the interest of the Chamorro People:

Maila' ya ta fan hita mo'na, ya ta akudi este na takhelo' asunto, gi klâru yan dinanche na manera.

Mungnga hit manmumu para I direcho-ta.

Gi mistet, ta ilâo I mânu nina'siñâ-ta ya fan unu hit na hinasso yan hinandò, kosaki todù hit manmiresi para I minâolek todù I mantaotâo-ta yan parehu para i minâolek I tano'!

Ta mumuyi kumu unu pat sanghe, lao ta fanhita mo'na kumu unu, sa' unu ha' na enemigu.

Fanohge Chamorro!

Let us fight, together or apart but let us fight for the same noble reasons and against our common enemy: oppression. And in all its forms.

Let us not fight each other because the paths that we choose are different.

If we must, let us take a different path, but may it be towards the same end goal.

Biba Chamorro!

¹ Governor Leary. General Order No. 4. Aug. 25, 2899

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March 16, 2017

Honorable Benjamin J. Cruz
Speaker, 34th Guam Legislature

Honorable Therese M. Terlaje
Vice-Speaker, 34th Guam Legislature

Hafa Adai Honorable Madam Chair, Mr. Speaker & members of the 34th Guam Legislature,

FOR THE RECORD

As a native inhabitant of Guam and a Chamorro, I hereby submit my testimony in SUPPORT of Resolution 51-34 (LS) and Resolution 52-34(LS).

Madam Chair, Mr. Speaker and all members. NOW is the time to fight! The "native inhabitants and their descendants" are tired of being marginalized. The U.S. District court of Guam has no business interfering and meddling with Guam's decolonization process. Judge Frances Tydingco-Gatewood's recent ruling in Civil Case #100035-17 shows a grave disrespect and insult to the U.S. Congress and the United Nations Resolution that all territories have a right to self-determination. In Judge Tydingco-Gatewood's ruling she failed in her fiduciary responsibility to fully interpret the constitution and laws fairly and impartially. WE strongly believe

that Judge Tydingco-Gatewood's ruling was in it-self racially and politically bias!

Madam Chair, Judge Tydingco-Gatewood failed the test. She failed to ask the most fundamental question: Does Equal Protection under the 14th Amendment protect everyone? The answer can be found U.S. Supreme court case *Young v. UPS*. The answer, "Equal Protection may not protect everyone equally."

Madam Chair, WE have the GOD given right to "self-determination" and to determine our "political status." WE have been oppressed and under colonial occupation for over .300 years NOW is the time to fight to become a sovereign people. It is in the wisdom and vision of the late Senator Paul J. Bordallo, former Senator Hope Cristobal, Chamorro Rights Activist Ron Rivera and the late Ed Benavente, the late Senator Angel L.G. Santos, former Governor Paul M. Calvo, former Governor Joseph F. Ada and our Maga Lahi Eddie Baza Calvo (just to name a few), that through decolonization we have the God given right for self-determination.

Thousands have declared and have committed to asserting their rights as Chamorros to become a Sovereign Nation...a great Chamorro Nation! NOW is the time to fight! It's time to fight for the injustices imposed upon our people. NOW is the time to fight in our struggles. Let's continue the fight where organizations like OPI-R and the Chamorro Nation left off. The fight for the return of all federal excess lands, true liberation, the ability to control our immigration laws, fishing rights, and free trade just to name a few. NOW is the time to fight to let our federal counterparts know that we will settle for nothing less than partners and that they don't own us. NOW is

the time to fight to control our destiny! Let's not give up the fight against unfunded federal mandates and discriminatory federal court rulings.

Lets continue this fight to decide our own political status without outside inference...a decision that should be made by the "native inhabitants of Guam."

WE thank Mr. Arnold Davis for his service to the United States and his service to Guam while serving in the United States Air Force. However, Mr. Davis will only be one thing. A welcomed visitor and a colonizer.

The injustices and sufferings must stop now. Our manamkos are dying shackled and mouths taped. NOW is the time to fight for our children's future...it's time to set them free.

In closing I share a famous quote by late Senator Anghet Leon Guerrero Santos the most prolific Chamorro rights activist in this era.

"We cannot be passive or silent when human beings endure sufferings or humiliation. We must step forward and take sides. At times, we may make mistakes. But we must never make the mistake of failing to try. People deserve nothing less." –Angel L. Santos

WE join you in this fight. WE will fight a long your side! Fanohge Chamoru and Biba Chamoru!

Dankalo na Si Yu'os Ma'ase yan Put Respetu',

ORIGINAL SIGNED

Harold Cruz

NOTES

The first Legislative Commission on Political Status, 1973-1974

The first Political Status Commission was created through Public Law 12-17 by the 12th Guam Legislature in 1973. It was the first official body set up to address Guam's political status as a specific issue. Unlike the previous Political Status Subcommittee and the Governor's Advisory Council, the Political Status Commission was established to provide information to the general public about the legal and political status of Guam with the United States. The commission was chaired by Senator Frank G. Lujan and was comprised of nine senators, including: Joseph F. Ada, Antonio M. Palomo, Adrian C. Sanchez, Francisco R. Santos, Richard F. Taitano, Paul M. Calvo, Jesus U. Torres, and Paul J. Bordallo. An informational report was generated and released in September 1974.

The second Special Commission on Political Status, 1975-1976

The 13th Guam Legislature created the second Political Status Commission in 1975. The commission did not take a position on the ultimate status for Guam but was tasked with educating the public about the different political status options and to formally open negotiations with the federal government. Public Law 13-24, which created the commission, identified the specific problems the commission was to try and resolve, including shipping, immigration, greater regional participation and other restrictions to Guam's economy as a result of the Organic Act or other federal controls. Unlike the first commission, the second Political Status Commission was comprised of 15 members from both political parties and two village commissioners (mayors). Republican Speaker Joseph Ada appointed four senators of the majority party and three members from the public-at large. The Democratic minority selected three Democrat senators and Democrat Governor Ricky Bordallo selected three members of his administration. Republican Senator Frank Blas was selected as Chair of the commission and members included Edward Duenas, Thomas V. C. Tanaka, Jr., former Lt. Governor Kurt Moylan, Dr. Pedro Sanchez, and Democrats Carl T. C. Gutierrez, Adrian Sanchez, Francisco R. Santos, Edward Charfauros, Delfina Aguigui, James McDonald, Eugene Ramsey and Joseph Rios. PL 13-134 expanded the membership to include appointees from the Commissioners' Council Gregorio A. Calvo and Roman Quinata.

POLITICAL STATUS REGISTRY

Who can Register? Any person born or migrated to Guam prior to the implementation of the 1950 Organic Act of Guam. To include the descendants of those born or those who migrated to Guam prior to the implementation of the 1950 Organic Act of Guam.

Many things claimed as uniquely American—a devotion to individual freedom, for example, or social opportunity—exist in other countries. But birthright citizenship does make the United States (along with Canada) unique in the developed world. [...] Birthright citizenship is one expression of the commitment to equality and the

expansion of national consciousness that marked Reconstruction. [...] Birthright citizenship is one legacy of the titanic struggle of the Reconstruction era to create a genuine democracy grounded in the principle of equality.^[42]

The original interpretation of the United States Bill of Rights was that only the Federal Government was bound by it. In 1835, the U.S. Supreme Court in Barron v Baltimore unanimously ruled that the Bill of Rights did not apply to the states. During post-Civil War Reconstruction, the 14th Amendment was adopted in 1868 to rectify this condition, and to specifically apply the whole of the Constitution to all U.S. states. In 1873, the Supreme Court essentially nullified the key language of the 14th Amendment that guaranteed all "privileges and immunities" to all U.S. persons, in a series of cases called the Slaughterhouse cases. This decision and others allowed post-emancipation racial discrimination to continue largely unabated.

Later Supreme Court justices found a way around these limitations without overturning the Slaughterhouse precedent: they created a concept called Selective Incorporation. Under this legal theory, the court used the remaining 14th Amendment protections for equal protection and due process to "incorporate" individual elements of the Bill of Rights against the states. "The test usually articulated for determining fundamentality under the Due Process Clause is that the putative right must be 'implicit in the concept of ordered liberty', or 'deeply rooted in this Nation's history and tradition.'" Compare page 267 Lutz v. City of York, Pa., 899 F. 2d 255 - United States Court of Appeals, 3rd Circuit, 1990.

Hafa Adai, my name is Jamela Adapon Santos. I am the daughter of Nicolas Mercado Santos, and the late Emelita Adapon Santos. My ethnic origins are from San Juan, Batangas, Philippines, where my mother was born, and San Fernando, Pampanga, Philippines, where my father was born.

I was conceived, born, and raised here on the island of Guam.

I have called Guam my home. I have left home, and I have returned home. Guam is the only place I know as home.

And even though I breathe the air I breathe; eat foods from the rich soil of this blessed land; drink of the waters; swim in the ocean abundant with life, even though my existence today is shaped and supported and nurtured by Guam, my *home*, I do not claim any identity as Chamorro, or as a *native inhabitant*.

That is not for me to claim.

I am clear that my people are from the Philippines. I am clear that the blood that runs through these veins is from a lineage of Filipinos and Filipinas whose ancestry comes from the Philippine Islands. Maybe at some tumultuous point in my adolescent years I claimed Spanish ancestry because I wanted to be associated with the supposedly privileged and desired lighter skinned folks, but I never claimed to be Chamorro, nor have I demanded to have the same status or rights as the indigenous people of this island.

That is not for me to demand.

The plaintiff, Arnold "Dave" Davis argues that his rights are being violated. Dave Davis is described as a "white, non-Chamorro male" who is a resident of Guam. Again, Arnold "Dave" Davis is arguing that his rights are being violated.

As a person of Filipino ancestry who calls Guam home, I do not feel that my rights are being violated because I cannot participate in the Political Status Plebiscite. If the question that came about at the very beginning was asking what the Chamorro people want their political status to be because it was **FORCEFULLY CHANGED FOR THEM by their colonizers in the first place, then why in the world would I think that I have any right, or any say in this vote?**

This vote is not for me. It's for my Chamorro brothers and sisters, mothers and fathers, nanas and tatas. It's okay. I stand by you. I want you to be able to say how you wish to govern yourselves, make rules that make sense for you again. Because those were taken away from you against your wishes.

I think that I have heard crazy talk like, "If the Chamorros change their political status, you could be kicked out of Guam. They'll tell everyone who's not Chamorro to leave." It makes me laugh, and also it makes me really sad. Sad, not because I believe

that will happen. Sad because people think so black and white like that. The Chamorro people, like many indigenous people know--they have always known--about how to maintain balance and harmony. Colonization has been toxic. Colonization has poisoned the atmosphere, the psyche, the spirit of a people who danced and chanted in harmony, who fished and hunted and harvested with balance, who weaved, sailed, and navigated throughout Oceania.

The Chamorro people know harmony.

And somehow I am not afraid of getting "kicked out." I don't hear future voices saying, "Hey you Tagalog! Go home! Get the fuck out of my island!" I don't hear that. I don't believe that that is going to happen.

I believe that the Chamorro people just want to find that place of balance and harmony again, and so long as everyone else's rules and laws and statutes blanket and stifle the island, it will be very tiring, and a lot of work to find that harmony, that balance once again.

May I make this plea to my Filipino brothers and sisters to understand what it means to be an ally. Know that we can go back to the Philippines and, for the most part, know that we govern ourselves. We live on the lands of someone else who do not get to make their own rules. In the spirit of reciprocating or maintaining balance, we must be allies.

I am in support of the *appeal* of the Dave Davis case.

Saina ma'ase. Maraming salamat po.

Buenas yan Häfa Adai Speaker Cruz, Vice Speaker Terlaje and Senators of I Mina'trentai Kuättro Na Liheslaturan Guåhan. Si Yu'os Ma'äse' Todus Hamyo.

I na'an-hu siRay Lujan and I come before you all today on behalf of the Social Work Student Alliance out of I Unibetsidät Guåhan, in support of *Resolution 51-34 (LS)*, to support an appeal in the recent ruling of *Davis v. Guam*.

As future social workers, we will soon be working with some of the most marginalized peoples in all levels of our society and in varying capacities. One of the bedrocks and foundations to our understanding of such issues were introduced to us upon entry of the social work program in a class called Social Justice. There, we learned of the importance of the UN Universal Declaration of Human Rights and other international instruments which aims to promote and protect human rights and social welfare. We learned of the history and context to which they were created and we learned how influential such instruments are in guiding the practice and ethics of the field of social work.

The UN Permanent Forum on Indigenous Issues defines indigenous peoples in context to political participation by stating that “indigenous peoples often have much in common with other neglected segments of societies...lack of political representation and participation, economic marginalization and poverty, lack of access to social services and discrimination. Despite their cultural differences, the diverse indigenous peoples share common problems also related to the protection of their rights. They strive for recognition of their identities, their ways of life and their right to traditional lands, territories and natural resources” (UN Indigenous Peoples, Indigenous Voices).

It is a sad time that we live in to see the selective application of the U.S. Constitution come to the limelight in such an important month for our people, *Mes CHamoru*, which once more reminds us that we are but second class citizens. It was one thing to learn how this instrument has violated the UN Declaration on the Rights of Indigenous Peoples in the onset of U.S. colonization by taking land, displacing peoples and families, creating dependency, using our island merely for geo-political military strategy, and banning the use of our native language: but it is another thing to witness it firsthand. The one thing that we have left to right the wrongs of the past and bring justice to our people was once more taken away for the benefit of non-natives. To add further insult, we were also called racist and discriminatory in accordance to the 15th amendment of the U.S. Constitution which is a product of American racism and is alive and well to this day.

While I am devastated, I come before you with the faith and hope that you, our elected leaders, will hear our voices, do what is right and just, and fight for our people. The true measurement of our colonization will be determined if we accept this ruling.

Si Yu'os Ma'äse'!

Social Work Student Alliance
Division of Social Work, House #31 Dean's Circle
UOG Station, University of Guam 96923

Support for Resolution 51-34 (LS)

“RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM,” by Therese M. Terlaje

03/17/2017

Buenas yan hafa adai Vice-Speaker Therese Terlaje and honorable Senators of the 34th Guam Legislature:

This testimony is presented on behalf of the Social Work Student Alliance (SWSA) of the University of Guam. SWSA thanks-you for this opportunity to present testimony in support of Resolution 51-34 (LS). My name is Lakretia Castro-Santos and I am a senior in the social work program. Resolution 51-34 (LS) is of great significance as it supports the Government of Guam in gaining further assistance to defend the rights of the native inhabitants of Guam.

It is rooted in the social work core values that we challenge social injustices by pursuing social change on behalf of those who are oppressed and for those who may not have a voice. As stated in the social work Code of Ethics, social workers strive to ensure access to equality of opportunity and meaningful participation in decision making for all people.

Resolution 51-34 (LS) will avail the people of Guam an opportunity to speak up on their right to self-determination. As a social work student, resident of Guam and descendant of a native inhabitant, I stand by the people of Guam in efforts to exercise our right to determine our future. Without this appeal, we will continue to be oppressed in our

own land. At the very least, the native inhabitants deserve to be heard. It is because the resolution greatly benefits our community ensuring a chance at self-determination that the Social Work Student Alliance stands in support of this resolution. *Si Yu'os ma'ase!*

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Resolution 51-34 (LS)

“RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST THE DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM” sponsored by Therese M. Terlaje

03/17/2017

Buenas yan hafa adai Vice Speaker Terlaje and senators para i Mina'trentai kuratro na lehislatura. I thank you all for this opportunity to present my testimony in support of Resolution 51-34 (LS) to support an appeal in Davis v. GEC.

Si Rosario Perez yu'. I am Rosario Perez. I am a student of the University of Guam double majoring in Social Work and Chamorro studies. Since high school I have studied the different colonial periods of Guam, particularly the colonial period we live in today. I have learned about the positive and negative effects on the people. I have done most of my papers and projects about colonialism on Guam, but I still feel that my knowledge of the subject is never satiated nor completed.

My research has shown me that Guam became an unincorporated territory of the United States established by the 1950 Organic Act of Guam. Public Law 25-106 specified the need for Guam's people to “exercise the inalienable right to self-determination of their political relationship with the United States of America,” and describes the right “founded by the 1898 Treaty of Peace between the United States and Spain (PL25-106).” The law also specifies that those who are eligible to vote are the native inhabitants of Guam, which is defined as those who were made U.S. citizens via the Organic Act in 1950, including their descendents.

To an extent, I understand the reasoning behind the ruling of the Davis case, defined through the U.S. Constitution, but as a Chamorro and Native Inhabitant it is upsetting to hear that my right to self-determination is “racist” or “unconstitutional.” This is an inalienable right that should be granted to all colonized people of the world.

I mean not be a lawyer but the plebiscite to determine Guam's future is not meant to be exclusive, but rather it is meant to empower the native inhabitants and the

indigenous people in their right to self-determination. The indigenous people of Guam are the Chamorro people. The Native inhabitants are those who were made U.S. citizens via the Organic Act. This includes the Chamorro people and any other person who was here on Guam in 1950.

Just as the United States and other independent nations of the world exercised their rights, it is now time for Guam to decide. But it would be continued oppression to have those who are not native inhabitants or indigenous Chamorros decide our future.

It is because this resolution benefits our community and helps ensure our right to self-determination that I am here today speaking to all of you in support of this bill.

Ginen i mds takhalom gi anti-hu. put fabot, mungga malefa i taotao Guåhan.

From the deepest of my soul, please don't forget the people of Guam.

Si Yu'os ma'ase.

Thank You.

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Name

E-mail Address

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
RESOLUTION NO. 51-34 (LS): SUPPORTING THAT THE GOVERNMENT OF GUAM
MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO
ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM
March 17, 2017

Buenas yan Háfa adai distinguished members of I Mina'trentai Kuáttro Na Liheslaturan Guáhan, Speaker B.J. Cruz, Vice Speaker Therese Terlaje, and Senators. Dankolo na si yu'os ma'ase for your time in allowing me the opportunity to address you today. I lend my voice and words today not to our struggle, but our hope that one day we will be able decolonize our island by decolonizing our minds and lives. In our own healing from colonialism and historical trauma, I offer a poem I had written as positive energy and renewed strength in our connected journey forward where we advocate and affirm what we have and what is innately ours— our voice.

We Are US

Amid internal-interpersonal power-differential,
an inmate has to face the calamities and injustices
of internment camps imprisoned in their minds.

A delegate is only represented—
her mere presence is dismissed,
her voice silenced by an administrative power
refusing to acknowledge her need.

A non-self-governing people die for democratic principles
when their own sovereignty and innate human right
is uprooted as that of their jungles,
water, air, homes, lives, and minds.

I Taotao Tano' continue to get massacred as our young face the brunt of wars,
positioned in a global world that does not acknowledge our existence.
We are foot soldiers being dragged into bloody wars,
tortured by the aftermath of post-traumas
that forever change our mental images
as abruptly as typhoons destroy our homes
and permanently affect our landscape.

Their mission is our self-demise as we falsely blame each other
and point fingers placed on triggers that strategically
rip apart our families and cultural identity, our self-worth.
We place value on Uncle Sam and The Commander in Chief
rather than on our own uncles, aunts, nieces, nephews, and relatives.
We use capitalism to measure others' worth and currencies
before ever attempting to acknowledge our innate invaluable resources—ourselves.

Our Manaina cry out as we chant in a choir of confusion
where elites rule over the humble, deepening our disconnection to each other
as massive as the Marianas Trench.

Indigenous souldiers of a colony carry out missions where democratic principles are spread and fought for, as these warriors return home to a non-self-governing territory where lands inherently theirs are eradicated as others' possessions.

Ownership must be paid in dues before being bought out; the gamble is not a risk— it's already decided.

We are owned.

Children are told somewhere in a far distant land there exists a better life that is unlike you. Youth swear in to give up of themselves and fight for principles that were explicitly taken from us, as they implicitly bartered atomic bombs, Agent Orange, and burial sites into a nation, a culture, and a people that existed before the U.S.

We were US before the U.S.

Our waters are polluted with contaminated language that curse our confidence, self-esteem, worth and dignity as toxic cycles and systems that once allowed slavery and dehumanized people as objects of commerce, traded warriors for wars, sovereign lands for military fortresses, culture for assimilation, native for naïve, Guahan for have-nots, Micronesia for Valiant Shield, jungles for live-firing ranges, matrilineal for a patriarchal society, Saina for administering powers, inafa'maolek for self-greed, The Emperor of Japan for The Insular Empire, an educational system for military recruitment and ASVAB dispensaries, indigeneity for immorality, and sovereign for forced colonization.

This forbidden truth shames our authenticity. Our lands are untouched by the families that once thrived and lived there as armies of machinery receive orders to destroy, bruise, abuse, torture, and kill roots that interconnect our bloodlines and histories. The present is a reflection of past trauma where in the absence of an abuser, we physically, emotionally, mentally, and spiritually abuse ourselves, professing to do it for monetary gain and a false sense of liberty.

We no longer are just occupied or colonized, we have been conquered and minimized to that of a location, a battleground, a strategic military base, and now an option of a live firing range. We still exist and are still alive; in the hearts of our people, we will forever thrive.

The recent ruling of Davis v. Guam is not representative of my Chamoru culture, but rather the totality of CHamoru colonization; it is illustrative of the elements that impact our lives due to living through the internal wars of a colonial system embedded in the unconscious conscience of dysfunctional systems imposed on our familia.

The once organized, unincorporated territory is starting to believe
in her self-determination and freedom,
her innate beauty and value, her indigeneity,
sacredness, and story.

Don't let their constitution define Chamoru rights
Don't let their injustice define our indigeneity
Don't let your voice be silenced when your people are looking to you as leaders to advocate not for a
plebiscite, but for our next generation.
Don't let the future of our people end here.

Don't let the U.S. define US.

Saina ma'åse.

si Josette Marie Lujan Quinata

March 17, 2017, 9:00 a.m. 34th Guam Legislature Public Hearing of Resolution No. 51-34 (LS) and 52-34 (LS)

Oral Testimony in support of Resolution 51-34 (LS) Chamoru translated in English:

Ned Pablo

Buenas.

(The Chamoru language was translated in English by Ned Pablo.)

Hello. I am Ned Pablo. This is what I going to say, I do support the resolution, to challenge. And don't stop challenging the U.S. District Court. And whoever else is going to challenge us, or to make them more [at an] advantage to us.

We are the People of the Land.

We are the ones that own the lands of the Chamorro. And we are not by ourselves. There are others that want to help. The Chamorros from the Northern Marianas they're interested. What more, every day, every minute, the Chamorros from the States, the Marianas, and Guam, they keep saying they support what I'm doing and what we're doing.

And what you're doing, you're fighting for your rights and our inheritance. Our inherited right.

Here's Louis Manglona, he's saying to me (Mr. N. Pablo reads from his smartphone):

Respect with respect and salute, get together and let your flag rise and wave. And we support you one hundred (100) times over for the rights of the Chamoru. Hold hands together and be careful that it breaks. Make you guys strong. Be strong. All of you guys be strong. Because we love you and it's a job that will determine what's going to happen. Louis Manglona.

All the Chamorros from Rota, Tinian, and Saipan, want to get together and challenge the federal, the U.S. District Court. Whatever they are going to do, whatever they are going to do to us, to take away our land, our inheritance, our inherit right.

All of you leaders, senators, Governor, Lieutenant Governor, Congresswoman, gotta hold hands together and be strong. And you know, I almost gave up, you know, my strength. Because I almost didn't have enough sleep because the federal kept bothering me. It kept following me everywhere around the world or wherever I am at. Wow! These types of people would do this is that democracy?

I doubt that. I don't believe that many more. Because of what I did, because I told the truth and I put them in their place. I put them in their place where the dirt is dirty. You'll open up the dirt and put their lies and their deceit down in the ground and bury their deceit and their lies.

They think they are gonna [going] governance us and they're going to tell us how to do things and what to do? And don't, you guys that are up there in office, you guys better listen to the people. What more, the Chamorro people, because we are the People of the Land.

And this is what all I'm going to say. If you need help from the people, the Chamorros that are not Chamorros, there's plenty that believe on [in] what I did. And I will call them and let them know when and where. When you guys need their help and I will make sure that the people will come, when in need in time of help and support. It doesn't matter if you're gonna [going to] protect and defend the culture, the language, and the rights.

And this is what I'm going to say. The people are starting to be hurt and they're feeling hurt and they are telling me everything.

And this is all I'm going to say, Tydingco-Gatewood, once they turned in the resolution to challenge to appeal. I'm telling you; we're not going to wait long, because we are going to come back. Across the street, near the beach, on the other side of the court, and we're going to let you know that we're not playing around anymore. You need to listen to us, the Chamorros, the People of the Land. We're not going to listen to you guys anymore. You need to listen to us.

Make a lie; make a law that will at least tell us, the People of the Land. You know what, we don't need to listen to their ruling that they made a decision on. You senators just do whatever to the highest of your ability or power to stop this. And I will be the force that will be your backing with the people if you need the people, because they woke up. And we'll just let it go and see what happens. You know, we'll see what happens.

If they act like it's nothing, even if, you know, we don't know, or they don't let us know, we will know that they're making it like we're nothing. So we'll make it like they're nothing too because we'll come back. And this time there will be more people.

Believe. Believe. Because I'll speak talking to the people on Facebook, and the people who just keep talking amongst each other and we'll be informing each other of what will be or have.

And that's it.

[07:14]—Watsapp recording sent on 03/20/17, 4:26 a.m.

March 17, 2017 Committee on Culture and Justice
Chaired by Vice Speaker Therese Terlaje
Testimony on Resolution 51-34 & 512-34
by Rosa Salas Palomo

Si Yu'os ma'ãse'. Yan si Rosa, pot fabót.

Ya-hu fine'nenana bai hu gâgao petmisu i manaotao-ta ni' manmo'na ki hita na bai hu kuentos pâ'go kosaki yanggen hâfa guaha ilek-ku ni' ti dinanche pat nu ti ma mamparehu hinasson-mâmi, u ma nâ'i despensasiôn.

Bai hu fino' Engles yan fino' CHamoru sa' ennao gui' hu petsisigi pâ'go na tiempo.

Thank you very much for the opportunity but before I begin I would like to ask permission from our ancestors, the ancient CHamorus, to please bear with me and to give me permission to speak. And, if I in any way say anything that is contrary to what they believed, I ask for forgiveness.

I will speak in both languages – CHamoru and English – they are the official tongues of this island – and it is imperative and my sincere belief and commitment that everyone on this island of Guam that many people call, and claim paradise, be bilingual in at least CHamoru and English – everyone – whether you are a native inhabitant or a visitor.

Thank you Vice Speaker Terlaje for letting me know about this, this morning. I'm glad I got up extra early so I could read my messages. I am thankful for technology. I am ashamed to say, but I will admit that if I had not gotten your text I would not be here and then, I'd be reading about it in the paper, but I'd rather be a part of it.

I don't participate in many battles, I choose my battles and at this age I think we have to because we don't have as much energy as we used to.

Si Yu'os ma'ãse', Vice-Speaker Terlaje, sa' ginen I tinige'-mu gi teks na mâtto yu' guini. Komu ti hu taitai ya ti kahulo' yu' tâftaf ya u taitai i teks-mu, pues siempre taigue yu' guini. Lao, ga'ña-ku na bai hu gaige guini ya bai saonao guini na mubimento sa' gof empottânte.

Annai humâhano hu' magi, hu faisen maisa yu' sa' hâfa na bai hu gaige guini. Kao put i ha sangâni yu' si Vice-Speaker yan Chair este na komiteha, si Terlaje, pat kao guaha mâs empottânte gi i korason-hu ni' trabiha ti hu sâsangan.

I asked myself on my way over here why am I going to be present? What's my reason? Do I have a personal interest in this? Of course, I do. That really is a question that needs no answer. But I wanted to delve into my innermost thoughts and the deepest part of my heart to come up with a reason.

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One of my answers is the fact that as many of you all have been sitting here for hours and are probably have grumbling, if not gurgling if not groaning stomachs, as well as the people before us, si Yu'os ma'ase for bearing with all of this, but this is extremely important.

One of the things that I am grateful for today is to hear the thoughts – although I've heard many of your thoughts, those of you who have come before our prestigious audience – the senators – however, it's always good to be reminded.

I unu na rasón ni gaige gi i korason-hu pã'go na mâtto yu' magi i para bai hu ékungok todú I los prohemos, todú i taotao, manhoben yan manãmko', ni' manguentos pã'go na ha'ãni. Gof nisisãrio na ta fanmana'fanhasso di nuebu ni' hãfa siha manmaloffan yan hãfa gaige gi i korason-ñiha sa' gof chaddek hit manmaleffa.

My position on both of these resolutions is affirmative. I support both of them. The latter one, and again I'm pretty much very faithful to my feelings, I'm not so sure that latter one why I would support it at this point, but you know, I'm a woman, who I'm a woman and I'm free to change my mind and I will use that to my advantage. If, because you know, that's the cliché – isao-ñiha, right? That's what people say pues nangga ya bai usa lökkue', sa' empottante. Lao, i fine'na na resolución, 51-34, ayu hu gof suppotte.

I support 31-54 wholeheartedly. And, that one... I won't dwell too much on it because much has been said...

Ti bai hu kuentos meggai put ayu sa' meggai esta manma sãngan, lao este para bai hu sãngan pot este. Guaha esta sumãngan na petsigi mo'na. Achokha' ilek-ñiha, ilek-ñiha ya hekkua' hãyi i "-ñiha" guini, even if "they" say, but I'm not sure who "they" are, na ti u faloffan gi i Kongresu pat kotte, that's not the point.

The point is that we do something. The point is that we don't sit and chat and talk and demonstrate and do whatever it is that people do to show their support and nonsupport. The point is that we do something. And, when we are rejected, we move on. And, we move on and we move on.

There are enough legal minds in our community who are willing to help us out because, for some of us, it isn't about the money. It isn't about their reputation, whether they are going to be the top-notch lawyer or the top-notch senator or the top-notch governor or the top-notch lobbyist.

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The issue is a commitment. That they believe in what it is that they are, that they are pursuing – that they are seeking.

Ti pot salâppe' este, ti pot hâyi para u mâs takhilo' na abugao, pat gobietno, pat senadot, pat lobbyist, sa' manggof metgot i lobbyist. I, i hinasso este na kinalamten put hâfa para I minaolek i taotao, I Mañamoru.

I don't want to use the phrase the "People of Guam" because the "People of Guam" consists of not just CHamorus, it consists of a lot of ethnic, and language and cultural groups. So, we should, if our intent is for the CHamorus, pues pot fabót ta usa I Mañamoru.

Ya hu tungo' ha' na guaha gi iya hita kalan manma' á'ñao ni' anggen ilek-ta para I Mañamoru ha' este, âhe', ti para todú i taotao Guam.

But you know, it's commitment. I told... I mentioned I pick my battles now and this is one battle that I will stay on track and I promise that I will continue to follow up with it and I offer whatever assistance I might be able to offer.

The last point I would like to make is, in this pursuit of moving forward – after denial, after denial, after denial – it is very true that laws are made by man. It is also very true that man can change these laws. And, it is even more true that laws, that laws, that man has changed laws.

Todú I tiempo debidi ta háhasso na yanggen sigi ha' hit mo'na achokha' manma sangángani hit, "Ti siña, ti siña, ti siña. Ni' nagai'an," ta sigi ha' pumetsigi mo'na sa'gi i hinenggeku: i taotao fuma'títinas i lai, i taotao, lokkue', siña ha tulaike i lai, yan gof magâhet, i taotao manulálaika i lai. Meggai na lai manmatulaika.

So, with that in mind, this maybe the time – I mean I may not be here to enjoy whatever comes out of this – but my children's children – hopefully I get more – and the children of all those that are here, including those that are out there, perhaps they will in their lifetime.

It is a battle, ya yanggen siña, po'lu ya siha u miresi. Po'lu yan siha u miresi hâfa para u huyong ginen este sa' achokha' guâhu ti mumiresi lao komu siña i famgu'on-hu yan i famagu'on-ñiha yan I famagu'on todú este siha na los prohemos guini, pues dinanche mo'na.

The last point I would like to make – I think I said that already, right – is, and then I will move on for the others; let's pursue whatever avenues we may have and not stick to one path.

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And in the paths, that are chosen, this is something that I've learned as I continue to study because I'm still trying to find out what it is in the world I want to contribute to Guam. Let's start thinking about pursuing paths that include the indigenous CHamoru perspective.

There is such a thing out there that talks about indigenous theoretical frameworks. Let's try to think of those paths that fulfill the theoretical perspective of indigenous people. And, let's try those avenues simultaneously that we are trying – the frameworks that we have been trying, the frameworks that we have been educated in, because my hunch is that more paths and diverse paths we take, and the more we apply our “indigenouslyness” to some of the paths I think more people are going to be wanting to listen to us.

This may be the time. Pues yanggen put yanggen ta háhasso diferentes na manera na siña ta na'fo', ta na'sigi mo'na este na kinalamten pot este i, i, i determination, pot fabót, ñihi ya ta na'hâlom i hinasson CHamoru ni' taimanu mohon yanggen lála'la' guini si Nanâ-hu Biha yan Tatâ-hu Biha pat I mañainan-ñiha, háfa taimanu mohon i hinasson-ñiha ni' pa ta kéganna este nan na sichu'asión. Háfa ya to na'fandanña' mo'na yan todú i sesteman Amerikânu, if you will, i western method, ya t li'e' fan sa' ilek-ku na entre mäs ma hungo yan ma li'e' i sesteman i taotao, i mismo taotao Mañamoru, siña ha' mäs ma ékungok.

Pues, hamyo i representânten-mâmi. Hamyo in angóngokko para en giha mo'na este na kinalamtem. Bai in fanohge, fanachu para hamyo lao in gágagao, lokkue', hamyo para en fanachu para hami.

You are our representatives, we are, are... we stand up for you and thus we ask you to stand up for all of us. Here, bai hu na'fakpo' ni' este put fabót yanggen tâya' guaha. Ñihi ya ta kânta “Fanohge CHamoru,” pot fabót.

(All stand and sing “Fanohge CHamoru.”)

Si Yu'os ma'âse'.

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March 17, 2017, 9:00 a.m. 34th Guam Legislature Public Hearing of Resolution No. 51-34 (LS) and 52-34 (LS)

Written Testimony for Oral Testimony provided on 03/17/17, Public Hearing—sent via e-mail:

Testimony from Shannon McManus

1 message

Sun, Mar 19, 2017 at 1:57 PM

To: "Vice Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Ungil Kebesengei, Hafa Adai senators and vice speaker. My name is Shannon Kedei McManus Im the daughter of Steven Camacho Castro Familian Loddo from the village of Chalan Pago, and Andresina Obak Sengebau from the hamlets of Ngaraard and Peleliu in the Republic of Belau. I am here as a daughter of Micronesia to stand in solidarity in support of both bills with the self determination plebiscite and with The Chamorro Land Trust. My fathers family along with many Chamorros who suffered and continue to suffer displacement in their own home haps yet to receive land since applying in 1995. My mothers family is a different story of displacement and immigration post WWII. She has invested her life here as an educator but she has made it adamantly clear that this plebiscite is not her right or the right of the non-Chamorros. We celebrate our independence as a Palauan community every year here in Guam as well as our Filipino Kababayans, while our Chamorro people celebrate Liberation or rather our recolonization by the US. The people of Belau had their turn and made their choice. It's the Chamorro people right and your duty to uphold that right. So we thank you for taking up this cause. I just wanted to read something that I think reflects today's gathering. This is a poem by my grandfathers brother, Palauan author Valentine Sengebau. It's called Microchild.

-Poem-

Si Yu'us Ma'ase and Ke mal mesulang.

Microchild

In the emerging island nations
Where multi-national footprints
Have crisscrossed the souls
Of the indigenes and the children
In addition to their cultural heritages.
Drowning in a sea of exploitation;
The fruits of the future
Become transplanted in its native soils
As if through the artificial insemination.
The native cultures have been marred
With importations and assimilation
Of foreign enigmas.
Within this dissonant milieu
Microchildren are nurtured
With greater hope for tomorrow.
Alas! the abundance of the land and sea
Becomes second to imported luxury
And inferiority complex walk in
And effeminates the future heroes
And further mutilates the sacred ground
Of cultural and traditional destiny
Where our forefathers consecrated
And affixed and confirmed as a guiding star
To the Micronations.
But the tide of time has been altered
And the children of the island nations
With matured guidance of their elders
And the world around them
Will be able to reach maturity
And will be soundly proud of being islanders
And members of mankind
With even greater hope
Of achieving peace and harmony
For the sake of brotherhood
Of man and his environment.
Old folks only see visions
Of the world that would've been
Youth dream dreams of things to come.
Because a child is a father of a man.

email to Ms. Doris Santos

Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

I want to provide

Buenas yan hafa adai ~~senators~~ nice speaker & senators

Thank you for allowing me to provide my testimony. My name is Alissa Eclavea from the village of Yona.

The last time I testified, I was 17. Its Great to see new, bright young leaders.

I come here today, to provide my testimony as a young chamorro woman ~~and~~

~~soon to be mother~~. interesting now, when I was 17, I was fighting for my children before their even born.

I cannot express to you, how much this pains me. Growing up, I always heard the elders talk about the military constantly taking our land and not wanting to give it back. There are lands that the military have that are not being put to use. You see buildings rotting and abandoned. How can they not think about the families who deserve to be there, in their homes.

and now I'm a soon to be Mother

Before my grandmother went to heaven, she fought a long and hard battle to get our land back in tagachang. With the help of the community, Angel Santos, and our passion to fight for what is ours, we won.

My grandmother left me land so that I may teach my children to cultivate. To teach my children to respect the land. To teach them about our ancestors and how they lived on that soil and flourished. This is a way to teach my children to separate technology and ~~living~~ ^{enjoying} a chamorro life. I want them to be able to lay on a cot the way I did and rest while hearing the jungle sway. Hear the ocean far off in

2) I want all chamorro children to experience what our land has to offer

the distance and let it lull them to sleep knowing they are safe. Knowing that they are secure. ^{fruit like I did.} I want them to climb trees to pick

I am not just hurt. I am ^{disappointed} angry. As a mother to be, it is my duty to fight for our children and the future generations to come. I want to pass on my grandmothers legacy by leaving land for my children and so forth. This land belongs to the chamorro people. ^{as a chamorro, a native of guahan} There will be none left if don't fight

Please, lets not forget how america took our land from our ancestors. The military would knock on our ancestors doors and if they could ^{not provide a signature} not sign the paper, they ^{surrender in moro.} would dip their thumb in ink and force them to give up their land. This was more than a thumb print, this was Their livelihood. Their way of surviving. It was illegal for America to confiscate lands that ^{were} ~~was~~ not a US territory. Hence making us an unincorporated U.S territory today.

I feel betrayed. And I know that I am not alone. Our ancestors ^{were} ~~gruesomley~~ ^{we are starting} were forced to give up their land and today ^{was slap} to their face with the recent public ruling. Lets not disrespect their fight. Lets not disrespect the indeginous people of guam. Lets not disrepect my grandmother, esther Eustaquio eclavea who fought long and hard to provide this right to her family. It is our right.

I believe in our elected leaders. ~~Thank~~ Thank you for joining us in our fight.

I support bills 51 and 52.

3) My other half and I, have a dream...

where our children are playing in the yard... and I'm cooking Kado w/ the vegetables from our farm. Having fresh calamansi for lemonade & fresh donni for Ferideri...

I want our chamorro children to be able to chase the same dream if ^{they} choose... But.

what happens if theres no more land?

Hinasso pot i Taotao Sumay

Remembering the People of Sumay

The first effort to generate a list of persons born in Sumay and who were moved to Santa Rita after the World War II was made by former Santa Rita Commissioner Pedro L.G. Roberto in 1988. More recently, community input has been sought to update and expand a listing of individuals with ties to Sumay. The following list is presented to honor and commemorate all those many individuals whose stories of loss, adversity, and stalwart perseverance have built a legacy of strength and inspiration for many generations to come.

ABIAN, Ursulla A.
ACFALLE, Ana Quinata
ACFALLE, Jose D.
ADA, Rosanne Santos
AFJELLE, Ignacia Tenorio Perez
AFLLEJE, Sabino Acfalle
AGUIGUI, Julia Cruz
AGULTO, Antonio Perez
AGULTO, Consuelo Perez Camacho
AGULTO, Dolores Mendiola
AGUON, Aurora Limtiaco
AGUON, Concepcion Baleto
AGUON, Concepcion Mendiola Baleto
AGUON, Encarnacion
AGUON, Francisco
AGUON, Gregorio T.
AGUON, Lorette Anderson
AGUON, Manuel M.
AGUON, Margarita
AGUON, Rosalia Quan
AGUSTIN, Delfina Sablan Santos
AGUSTIN, Miguel Santos
ALCANTARA, Alfred Iriarte
ALCANTARA, Ana Mata Espinosa
ALCANTARA, Benito Iriarte
ALCANTARA, Eugenia Iriarte
ALCANTARA, Francisco Bueneventura
ALCANTARA, Francisco Iriarte
ALCANTARA, Gaily Iriarte
ALCANTARA, Joaquin
ALCANTARA, Luis Espinosa
ALCANTARA, Luis Sablan
ALCANTARA, Maria Duenas Anderson

ALCANTARA, Maria Iriarte
ALCANTARA, Priscilla
ALVAREZ, Isabel Aquiningoc
ANDERSON, Ana Perez
ANDERSON, Antonio D.
ANDERSON, Antonio Duenas
ANDERSON, Concepcion Concepcion Duenas
ANDERSON, Emilesia Tolentino
ANDERSON, Frank Lujan
ANDERSON, Gertrudez Duenas
ANDERSON, Jesus Aguon
ANDERSON, John D.
ANDERSON, Jose Lujan
ANDERSON, Juan Duenas
ANDERSON, Juan Leon Guerrero
ANDERSON, Juan Lujan
ANDERSON, Lucy Duenas
ANDERSON, Margaret S.
AQUININGOC, Gregorio Baleto
AQUININGOC, Isabel Duenas
AQUININGOC, Isabel Santos Duenas
AQUININGOC, Jose
AQUININGOC, Nicolas C.
AQUININGOC, Nicolas Dela Cruz
ARRIOLA, Antonio Arriola
ARRIOLA, Benito Arriola
ARRIOLA, Cecelia Quitugua Lizama
ARRIOLA, Rosario Lizama Reyes
ASCURA, Jesusa Aguito
ASCURA, Jesusa Camacho Agulto
ATOIGUE, Beatrice Cruz
BABAUTA, Alfonsina Afleje Cruz
BABAUTA, Amelia San Nicolas

BABAUTA, Antonia Santiago
BABAUTA, Enrique Santiago
BABAUTA, Felipe Santiago
BABAUTA, Florpies Espinosa
BABAUTA, Francisca Roberto
BABAUTA, Guadalupe C.
BABAUTA, Guadalupe Cruz
BABAUTA, Ignacio Santiago
BABAUTA, Jesus Camacho
BABAUTA, Joaquin Camacho
BABAUTA, Joaquin Santiago
BABAUTA, Jose T.
BABAUTA, Juan Cruz
BABAUTA, Juan Santiago
BABAUTA, Margarita Santiago
BABAUTA, Marian Borja
BABAUTA, Mary Ann Borja
BABAUTA, Rita Reyes Quintanilla
BABAUTA, Virginia Espinosa
BALETO, Antonio Concepcion
BALETO, Bennie Garrido
BALETO, Concepcion Sarmiento
BALETO, David G.
BALETO, Engracia
BALETO, Francisco Concepcion
BALETO, Frankie Garrido
BALETO, Galo Perez
BALETO, Jesus C.
BALETO, Jose Mendiola
BALETO, Maria Borja
BALETO, Maria Concepcion Borja
BALETO, Maria Perez Mendiola
BALETO, Vicente Mendiola

BARCZWSKI, Beatrice Mendiola
BARIL, Charlotte Tolentino
BENAVENTE, Estella Anderson
BLAS, Josefina Anderson
BLAS, Juan Alejandro
BLAS, Maria Dumanal
BLAS, Teresita Cruz Lizama
BLAS, Violet Aguon Borja
BORJA, Andres Cruz
BORJA, Antonia Topasna
BORJA, Antonio Concepcion
BORJA, Carmen Aguon
BORJA, Daniel Concepcion
BORJA, Dolores Cruz
BORJA, Francisco Concepcion
BORJA, Francisco Munoz
BORJA, Francisco Santos
BORJA, Gregorio Concepcion
BORJA, Gregorio Munoz
BORJA, Harold Cruz
BORJA, Ignacio Mendiola
BORJA, Isabel D.
BORJA, Isabel Lizama Diaz
BORJA, Isabel Munoz
BORJA, Jesusa Toves Guzman
BORJA, Joaquin Santiago
BORJA, Jose Cruz
BORJA, Jose Munoz
BORJA, Juan C.
BORJA, Juan Cruz
BORJA, Juan Soriano
BORJA, Julia Perez Duenas
BORJA, Lucas Concepcion
BORJA, Luisa Guzman
BORJA, Magdalena Cruz
BORJA, Manuel Mendiola
BORJA, Mariano Cruz
BORJA, Mariquita Cruz
BORJA, Rafael Namauleg
BORJA, Ralph Aguon
BORJA, Roque Munoz
BORJA, Rudy Aguon
BORJA, Soledad Aguon
BORJA, Sylvia Quintanilla Guzman
BORJA, Vicente Concepcion
BORJA, Vicente Perez Concepcion

BOYLES, Maria Guadalupe Concepcion
BRANCH, Andrea Sablan Borja
CABRERA, Concepcion Mendiola
CABRERA, Rosa Quintanilla
CAGUOIA, Teresita Nicolas Williams
CALVO, Felicidad Borja Salas
CALVO, Manuel A.
CALVO, Soledad Borja Salas
CAMACHO, Antonio Mendiola
CAMACHO, Antonio Meno
CAMACHO, Delores Meno San Nicolas
CAMACHO, Florence Babauta
CAMACHO, Isabel Borja
CAMACHO, Isabel Flores Asano
CAMACHO, Jesus Mendiola
CAMACHO, Jesus Meno
CAMACHO, Jose
CAMACHO, Lorraine Asano
CAMACHO, Luisa Babauta Sarmiento
CAMACHO, Ricardo Cruz
CAMACHO, Rosalia Taitano
CAMACHO, Tomas Meno
CHACO, Ana Camacho Cruz
CHACO, Jesus Chaco
CHACO, Maria B.
CHACO, Soledad Perez Concepcion
CHARFAUROS, Patricia Sablan
CHARGUALAF, Carmen Camacho
CHARGUALAF, Jose San Nicolas
CHARGUALAF, Vicente C.
CLAVERIA, Ana Mendiola Perez
CONCEPCION, Ignacio
CONCEPCION, Martha Lizama
CONCEPCION, Teresita Ada
CONCEPCION, Amanda Duenas Taitano
CONCEPCION, Antonio Taitano
CONCEPCION, Concepcion Taitano Mafnas
CONCEPCION, Enrique Perez
CONCEPCION, Enrique Santos
CONCEPCION, Florence Toves
CONCEPCION, Francisco
CONCEPCION, Francisco Perez
CONCEPCION, Gregorio Mendiola
CONCEPCION, Hinara Perez
CONCEPCION, Ignacio Mendiola
CONCEPCION, Inocencio Perez

CONCEPCION, Jose Taitano
CONCEPCION, Josefa Ulloa Mendiola
CONCEPCION, Joseph Mendiola
CONCEPCION, Juan Quintanilla
CONCEPCION, Juan Toves Perez
CONCEPCION, Julia Mendiola
CONCEPCION, Maria Camacho Guerrero
CONCEPCION, Maria Leon Guerrero
CONCEPCION, Maria Materne Ada
CONCEPCION, Monica Tolentino Degracia
CONCEPCION, Rosa Duenas Anderson
CONCEPCION, Sabino
CONCEPCION, Woodrow Ada
CONNELLEY, Maria Carmen Sablan Santos
CORREIA, Elizabeth Mendiola Perez
CORRIA, Isabel Perez
COX, Dolores Sablan Borja
COX, Otto T.
CRISOSTOMO, Jose Mendiola
CRUX, Luisa Salas
CRUZ, Adela Topasna Quidachay
CRUZ, Ana G.
CRUZ, Annie Pangelinan Perez
CRUZ, Annie Perez Flores
CRUZ, Antonia Mendiola Perez
CRUZ, Asencion Afleje
CRUZ, Asuncion
CRUZ, Atanacio Afleje Cruz
CRUZ, Charlie D.
CRUZ, Concepcion Tolentino
CRUZ, Eddie John
CRUZ, Encarnacion Perez Afleje
CRUZ, Enrique Salas
CRUZ, Francesca Salas
CRUZ, Ignacio Alcantara
CRUZ, Ignacio T.
CRUZ, James Robert
CRUZ, Jesus Camacho
CRUZ, Jesusa Afleje
CRUZ, Jesusa Afleje Cruz
CRUZ, Joaquin Reyes Cruz
CRUZ, Jose Concepcion
CRUZ, Jose Salas
CRUZ, Jose Tolentino
CRUZ, Josepha Camacho
CRUZ, Josephine Mendiola Perez

CRUZ, Josephine Perez
 CRUZ, Juan Afleje
 CRUZ, Juan Camacho
 CRUZ, Juan Jose Crisostomo
 CRUZ, Juan Mendiola
 CRUZ, Juan Reyes
 CRUZ, Julita Sablan
 CRUZ, Luisa Borja Salas
 CRUZ, Manuel Afleje
 CRUZ, Maria Bae
 CRUZ, Maryann
 CRUZ, Michael D.
 CRUZ, Miguel Crisostomo
 CRUZ, Noel Peter
 CRUZ, Oliva Leola
 CRUZ, Oliva T.
 CRUZ, Rita Bae
 CRUZ, Robert Salas
 CRUZ, Rosa Camacho
 CRUZ, Sabino Afleje
 CRUZ, Soledad Concepcion
 CRUZ, Soledad Manibusan Crisostomo
 CRUZ, Vicente Bae
 DAMIAN, Delfin Reyes
 DAMIAN, Julita Duenas Anderson
 DAMIAN, Rosa Perez Diaz
 DEGRACIA, Dolores Taitano Tolentino
 DEGRACIA, Elena Tolentino
 DEGRACIA, Francisco Tolentino
 DEGRACIA, Herman Tolentino
 DEGRACIA, Manuel Borja
 DEGRACIA, Manuel Tolentino
 DEGRACIA, Steve Tolentino
 DEL BAR, Eleanor Anderson
 DELA CRUZ, Jose R.
 DIAZ, Consolacion Cruz
 DIAZ, Emeliana Degracia Tolentino
 DIAZ, Engracia Borja Perez
 DIAZ, Francisco Lizama
 DIAZ, Gregorio Perez
 DIAZ, Guadalupe Cruz
 DIAZ, Juan Donato
 DIAZ, Juan Perez
 DIAZ, Rosa Cruz
 DIAZ, Serafina Sablan Pangelinan
 DIAZ, Tomasa Cruz
 DIAZ, Vicente Lizama
 DIEGO, Rosalia Crisostomo Cruz
 DOYLE, Agueda Isazaki
 DUENAS, Dora Babauta
 DUENAS, Enrique
 DUENAS, Guadalupe D.
 DUENAS, Jesus Duenas
 DUENAS, Jesusa Quintanilla
 DUENAS, Joaquin Perez
 DUENAS, Jose Perez
 DUENAS, Juan L. Santos
 DUENAS, June Cruz
 DUENAS, Pedro
 DUENAS, Vicente
 DUENAS, Vicente Perez
 DUMANAL, Enrique Quintanilla
 DUMANAL, Enriqueta Quintanilla
 DUMANAL, Florence Mendiola Perez
 DUMANAL, Florence Perez
 DUMANAL, Gregorio Quintanilla
 DUMANAL, John Babauta
 DUMANAL, Thomas
 DUMANAL, Tomas Quintanilla
 DYDASCO, Felix Torres
 DYDASCO, Feliz Cruz
 DYDASCO, Joseph Cruz
 DYDASCO, Maria Camacho
 DYDASCO, Maria Cruz
 DYDASCO, Maria Perez
 DYDASCO, Richard Cruz
 ESPINOSA, Francisco Arriola
 ESPINOSA, Francisco Iseaki
 ESPINOSA, Jesus Mata
 ESPINOSA, Margarita Iseaki
 ESPINOSA, Vincent Mata
 FARLEY, Dolores San Nicolas Perez
 FEGURGUR, Dolores Mansapit
 FEGURGUR, Joaquin Santos
 FEJERAN, Ignacia Pangelinan
 FLORES, Alejo Perez
 FLORES, Delores Perez
 FLORES, Dolores Concepcion Perez
 FLORES, Gregorio Toves
 FLORES, Maria Roberto
 FLORES, Rosita Perez
 GARRIDO, Ana Aquiningoc
 GARRIDO, Antonio T.
 GARRIDO, Maximino
 GARRIDO, Rachel Alcantara
 GARRIDO, Rachel Espinosa Alcantara
 GARRIDO, Ruth A.
 GOGUE, Maria Camacho
 GOGUE, Philip
 GOGUE, Roy
 GRECIA, Tomasa Espinosa
 GRISSIN, Jane Cruz
 GUERRERO, Thomas Camacho
 GUEVARA, Feliciana
 GUMATAOTAO, Dolores Perez Mendiola
 GUMATAOTAO, Encarnacion M.
 GUMATAOTAO, Francisco Mendiola
 GUMATAOTAO, Joaquin Diaz
 GUMATAOTAO, Juan P.
 GUMATAOTAO, Mae Dydasco
 GUMATAOTAO, Maria Charfauros Lizama
 GUMATAOTAO, Maria L. Guerrero San Nicolas
 GUZMAN, Alejandro Quintanilla
 GUZMAN, Alejo Concepcion
 GUZMAN, Antonio Concepcion
 GUZMAN, Antonio Santos
 GUZMAN, Beatrice Mendiola
 GUZMAN, Carmen C.
 GUZMAN, Carmen Quintanilla
 GUZMAN, Dolores Concepcion
 GUZMAN, Erminia Mae Santos
 GUZMAN, Erminia Santos
 GUZMAN, Francisco Concepcion
 GUZMAN, Francisco Reyes
 GUZMAN, Francisco Toves
 GUZMAN, Francisco Unsiog
 GUZMAN, Guadalupe Concepcion
 GUZMAN, Helen Munoz
 GUZMAN, Henry
 GUZMAN, Henry Reyes
 GUZMAN, Jose C.
 GUZMAN, Jose Perez
 GUZMAN, Jose Quintanilla
 GUZMAN, Jose Reyes
 GUZMAN, Josepha Concepcion
 GUZMAN, Juan Guzman
 GUZMAN, Juan Quintanilla
 GUZMAN, Juan Toves

GUZMAN, Maria Camacho Quintanilla
 GUZMAN, Maria Munoz
 GUZMAN, Maria Unsiog
 GUZMAN, Patrick Barcinas Anderson
 GUZMAN, Remedios Concepcion
 GUZMAN, Rita Quitugua Toves
 GUZMAN, Tomas Reyes
 GUZMAN, Vicente Toves
 HAMAMOTO, Isabel Sablan Munoz
 HAMRECK, Eddie Borja
 HAMRECK, Margaret Borja
 HAPER, Maria Arriola Santos
 HARPER, Maria Ana Santos
 HARRIS, Dean Mendiola
 HARRIS, Dolores Mendiola
 HARRIS, Forest Mendiola
 HENRICH, Efigenia Santiago Babauta
 HILES, Maria Santos Pinaula
 HUDSON, Antonio Cruz
 HUDSON, Cristobal C.
 HUDSON, Cristobal Cruz
 HUDSON, Jose Cruz
 HUDSON, Soledad Quintanilla Cruz
 IGNACIO, Felicita DeGracia Tolentino
 ISIZAKI Vicente L.
 JAMES, Francisco Borja
 JAMES, Lilly Borja
 JAMES, William Borja
 JUANICO, Maria Arceo
 JUDICPA, Concepcion Santos Agustin
 LAMORENA, Daisy Borja James
 LEON GUERRERO, Ignacio
 LEON GUERRERO, Jeanette Gogue
 LEON GUERRERO, Joseph M.
 LEON GUERRERO, Josephina Cruz Mesa
 LEON GUERRERO, Maxima Mendiola Camacho
 LEON GUERRERO, Regina Diaz
 LEON GUERRERO, Rosalia San Nicolas Perez
 LIMTIACO, Brigida Santos Toves
 LIZAMA, Ana Camacho Agulto
 LIZAMA, Agustin Aquiningoc
 LIZAMA, Brigida Guzman
 LIZAMA, Dolores Perez
 LIZAMA, Dolores Quitugua
 LIZAMA, Guadalupe Quintanilla Cruz
 LIZAMA, Jesus Cruz
 LIZAMA, John Patricio
 LIZAMA, Jose
 LIZAMA, Jose Duenas
 LIZAMA, Juan Quitugua
 LIZAMA, Lydia Pangelinan
 LIZAMA, Magdalena Camacho Agulto
 LIZAMA, Maria Babauta Dumanal
 LIZAMA, Maria Quintanilla
 LIZAMA, Robert Sr.
 LIZAMA, Rosa Babauta
 LIZAMA, Rosa Quintanilla Charfauros
 LIZAMA, Simeon Quitugua
 LIZAMA, Teresita Cruz
 LIZAMA, Vicente Duenas
 LLAMELO, Concepcion Crisostomo
 MAFNAS, Antonio Pangilinan
 MAFNAS, Antonio Santos
 MAFNAS, Enriqueta Espinosa
 MAFNAS, Jose
 MAFNAS, Rita Taitano Santos
 MANGLONA, Guadalupe Perez
 MARION, Lilian Reyes Rice
 MASAYA, Joaquina Ulloa
 MAY, Sylvia Santos Toves
 MCGHEE, Patricia San Nicolas Perez
 MENDIOLA, Ana Sablan
 MENDIOLA, Consolacion Reyes
 MENDIOLA, Consolacion Sablan
 MENDIOLA, Encarnacion Perez Perez
 MENDIOLA, Gregorio Guerrero
 MENDIOLA, Ignacio Sablan
 MENDIOLA, Jose Guerrero
 MENDIOLA, Luis Sablan
 MENDIOLA, Martin Sablan
 MENDIOLA, Martina Sablan
 MENDIOLA, Regina Guzman
 MENDIOLA, Regino Quintanilla
 MENDIOLA, Rosa
 MENDIOLA, Rosa Reyes
 MENO, Julia Camacho
 MERFALEN, Trinidad Crisostomo Cruz
 MESA, Barcelisa Afleje Noda
 MESA, Eleuterio Tajalle
 MINTER, Bernice Santos
 MORITA, George Rice
 MUNOZ, Bernadita Cruz Sablan
 MUNOZ, Dolores Sablan
 MUNOZ, Francisco Cepeda
 MUNOZ, Gregorio Sablan
 MUNOZ, Julia Concepcion
 NAPUTI, Rosalia Sablan Santos
 NAUTA, Enriqueta Tolentino Degracia
 NODA, Ana Perez Afleje
 PANGELINAN, Andrea Sablan
 PANGELINAN, Benedicto Sablan
 PANGELINAN, Cristina Perez Sablan
 PANGELINAN, Emelia Sablan
 PANGELINAN, Engracia Cruz Diaz
 PANGELINAN, Felix
 PANGELINAN, Francisco Sablan
 PANGELINAN, Jesus Duenas
 PANGELINAN, Jose Sablan
 PANGELINAN, Laura Sablan
 PANGELINAN, Lydia Guzman
 PANGELINAN, Maria San Nicolas
 PANGELINAN, Regina Concepcion Quan
 PARKE, Cristina Charfauros Lizama
 PEREZ, Ana Rivera Babauta
 PEREZ, Ana Santos Concepcion
 PEREZ, Antonia Mendiola
 PEREZ, Antonia Perez Mendiola
 PEREZ, Antonia Quintanilla
 PEREZ, Antonio Concepcion
 PEREZ, Antonio D.
 PEREZ, Antonio Lizama
 PEREZ, Antonio Namauleg
 PEREZ, Asuncion San Nicolas
 PEREZ, Daryl Quintanilla
 PEREZ, Dolores Espinosa Sablan
 PEREZ, Dolores Sablan
 PEREZ, Dolores Santos Toves
 PEREZ, Doris Sablan
 PEREZ, Eddie John
 PEREZ, Eleanor Loise Aguigui
 PEREZ, Enrique Pangelinan
 PEREZ, Felix Quintanilla
 PEREZ, Francisco Quintanilla
 PEREZ, Fred Mendiola
 PEREZ, Galo Mendiola
 PEREZ, Gregorio Quintanilla
 PEREZ, Guadalupe Reyes
 PEREZ, Jesus Concepcion

SANCHEZ, Lorraine Camacho
 SANCHEZ, Manuel Camacho
 SANCHEZ, Rosalia Camacho
 SANTOS, Alejandro Limtiaco
 SANTOS, Alejandro Limtiaco
 SANTOS, Amparo R.
 SANTOS, Ana A.
 SANTOS, Ana Santos Duenas
 SANTOS, Ana Tajjeron Munoz
 SANTOS, Anita Borja
 SANTOS, Antonia Duenas
 SANTOS, Antonia Santiago Babauta
 SANTOS, Antonio Sablan
 SANTOS, Arthur Borja
 SANTOS, Benito Santos
 SANTOS, Benny Borja
 SANTOS, Concepcion Manibusan
 SANTOS, Dolores Taitano
 SANTOS, Dorothy B.
 SANTOS, Eloy E.
 SANTOS, Eloy L.
 SANTOS, Enrique Sablan
 SANTOS, Briqueta Quintanilla
 SANTOS, Francisca
 SANTOS, Francisco Sablan
 SANTOS, Gil Mendiola
 SANTOS, Guadalupe Limtiaco
 SANTOS, Henry San Nicolas
 SANTOS, Ignacio Manibusan
 SANTOS, Isabel Reyes Garrido
 SANTOS, Jessie William Munoz Leon Guerrero
 SANTOS, Jesus Benavente
 SANTOS, Jesus Sablan
 SANTOS, Jose Limtiaco
 SANTOS, Jose Sablan
 SANTOS, Jose Santos
 SANTOS, Josefa Limtiaco
 SANTOS, Joseph Alfred Munoz Leon Guerrero
 SANTOS, Josepha Limtiaco Santos
 SANTOS, Juan Rice
 SANTOS, Juanita Munoz
 SANTOS, Julia
 SANTOS, Lourdes Marcela Sablan
 SANTOS, Luis Taitano
 SANTOS, Maria Aquig Duenas
 SANTOS, Maria Arriola Arriola

SANTOS, Maria Diaz
 SANTOS, Maria Munoz Leon Guerrero
 SANTOS, Maria Sablan
 SANTOS, Maria San Nicolas
 SANTOS, Martha
 SANTOS, Ramon Duenas
 SANTOS, Rena
 SANTOS, Soledad Arriola
 SANTOS, Teresita Cruz Dydasco
 SANTOS, Walter Rice
 SARMIENTO, Concepcion Quan
 SARMIENTO, Daniel B.
 SARMIENTO, Herman Babauta
 SARMIENTO, Jose B.
 SARMIENTO, Juan Babauta
 SARMIENTO, Juan Perez
 SARMIENTO, Maria Babauta
 SARMIENTO, Rita Borja
 SARMIENTO, Soledad Babauta
 SCOTT, Maria Anderson
 SEAGRAVES, Dorothy Camacho
 SMITH, Katherine Cruz
 SPETH, Annie Nicolas Williams
 SURBER, Juanita Wesley
 TAITANO, Ana Duenas
 TAITANO, Victoria Sablan
 TAJALLE, Ignacia Santos Torres
 TANEGA, Estella Mendiola Gumataotao
 THEIR, Alfonsina Cruz Dydasco
 TOLENTINO, Angelina Degracia
 TOLENTINO, Emeliana Degracia
 TOLENTINO, Felicita Degracia
 TOLENTINO, Florencia Degracia
 TOLENTINO, Joaquin Taitano
 TOLENTINO, Judith Degracia
 TOLENTINO, Maria Degracia
 TOLENTINO, Maria Diaz
 TOLENTINO, Maria Perez Diaz
 TOLENTINO, Matilde Degracia
 TOLENTINO, Pablo Degracia
 TOLENTINO, Rosalia Degracia
 TOLENTINO, Servia Degracia
 TOLENTINO, Thomasa Borja Degracia
 TOPASNA, Antonia Concepcion Guzman
 TOPASNA, Josefina Babauta Perez
 TOPASNA, Julian Fegurgur

TOPASNA, Teresita Santos Agustin
 TORRES, Agustin Santos
 TORRES, Blandina Cruz Borja
 TORRES, Felix
 TORRES, Jesus Pangilinan
 TORRES, Jose Santos
 TORRES, Rosa Mendiola Santos
 TOVES, Amalia Sablan Santos
 TOVES, Ana Cruz
 TOVES, Carmen Espinosa Sablan
 TOVES, Francisco Santos
 TOVES, Ignacio Santos
 TOVES, Joaquin
 TOVES, Joaquin Santos
 TOVES, Jose Wesley
 TOVES, Manuela Anderson
 TRIBIANO, Florence Aquiningoc
 ULLOA, Juan Santos
 ULLOA, Victoriano Santos
 USITA, Anna D.
 VIERNES, Guadalupe Sablan Santos
 WESLEY, Benito A.
 WESLEY, Delores Crisostomo
 WESLEY, Guadalupe Reyes Cruz
 WILLIAMS, Dorothy Pangelinan Perez
 WILLIAMS, Emeliana Samonte Nicolas
 WILLIAMS, Francisco Nicolas
 WILLIAMS, John Bryan
 WILLIAMS, John Bryan (1st)
 WILLIAMS, John Nicolas
 WILLIAMS, Lorenzo Nicolas
 WRIGHT, Rosita Duenas Santos

While every effort has been made to collect as many names as possible and to present them here as accurately as possible, we apologize for any omissions or errors made beyond our control.

Submitted by
Jose Garrido



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

FEB 26 1952

Air Mail

My dear Governor Skinner:

I am happy to be able to transmit herewith a document signed by me today conveying to the Government of Guam, for the consideration of one dollar, title to the lands which were placed under the administrative supervision of the Secretary of the Interior by Executive Order No. 10178, dated October 30, 1950 (15 F.R. 7313).

By virtue of this conveyance the Government of Guam obtains a fee simple determinable title to the lands so transferred. The Government of Guam may, without the approval of the Secretary of the Interior, sell, lease or otherwise dispose of any of these lands for (1) rehabilitation and resettlement purposes in accordance with section 40 of Public Law 33 of the First Guam Congress, and (2) for homestead purposes in accordance with Article 8 of Public Law 33. The conveyance would also make these lands available for designation by the Government of Guam for conservation, recreational and other public purposes. Under the terms of the conveyance, however, the sale, lease or disposal of these lands for other than homestead or rehabilitation and resettlement purposes would automatically cause a reversion to the United States of title to any parcel or parcels of land so disposed of unless prior approval of the Secretary had been obtained.

*for rehabilitation and
resettlement purposes
for homestead purposes.*

This conveyance has been made to the Government of Guam in order to ensure the successful completion of the Guam rehabilitation and resettlement program which was initiated by the Federal Government to make land available for homestead purposes; to enable the Government of Guam to give adequate consideration to the matter of setting aside sufficient areas of land for conservation, recreational and other long range public purposes; and to accommodate substantially the legitimate desires and aspirations of the people of Guam that the public lands of Guam be administered locally, and be made readily available to meet their land requirements. (Chamorro)

Sincerely yours,

Daniel L. Chapman
Secretary of the Interior

Hon. Gerilton Skinner
Governor of Guam
Agaña, Guam

25219

INTERIOR DEPARTMENT TRANSFERS
FEDERAL LANDS TO GOVERNMENT OF GUAM

*Carbonte
Linas
has
3/8/52*

Secretary of the Interior, Oscar L. Chapman, today announced the transfer to the Government of Guam of title to all public domain lands on the island which are under the jurisdiction of the Department of the Interior.

By this conveyance, the people of Guam regain jurisdiction over lands which were claimed by the Spanish Crown during the Spanish occupation, beginning in the 16th Century. These lands, amounting to approximately 30,000 acres, were ceded to the United States by the Treaty of Paris in 1898. This acreage constitutes about 21 percent of the total land area of the island.

In announcing the transfer, Secretary Chapman said, "This conveyance is in accordance with United States policy to extend to the people of the territories the fullest measure of self-determination consistent with local development.

"Governor Carlton Skinner has assured me that the Guamanian people are eminently qualified to administer these lands, and in the public interest he has repeatedly urged that the lands be transferred.

"I have been most impressed by the progress made by the people of Guam in the 18 months since enactment by Congress of the Organic Act of Guam. The First Guam Legislature is to be highly commended for its ability to formulate basic policies."

(1)

out in accordance with the above priorities.

The conveyance also provides that the Government of Guam may make available for homesteads vacant and unreserved lands, in accordance with Article 8 of the Guam Public Lands Act.

Section 52 of Article 8 authorizes the Department of Land Management, subject to approval by the Governor, to subdivide such areas of unreserved public domain as may be suitable for agricultural or grazing purposes into parcels not exceeding four hectares in the case of agricultural lands and not exceeding ten hectares in the case of grazing lands. Such parcels may be allotted to qualified persons for the purpose of farming and raising livestock with the right to acquire clear title upon fulfillment of conditions provided in the Public Lands Act.

Section 53 of Article 8 provides that:

"Every person who is the head of a family, eighteen or more years old, a citizen of the United States, a resident of Guam for at least five years immediately preceding the date of application and who has neither purchased more than one half hectare of land from the Naval Government of Guam or the Government of Guam since July 1, 1944, nor homesteaded any land on Guam for fifteen years preceding the date of application may, in accordance with the provisions of this article, be authorized to enter upon, occupy and improve a tract of Government real property for the purpose of homesteading."

In addition, the conveyance provides that the Government of Guam may set aside such of the transferred lands as are found suitable for recreation, conservation, or other public purposes. Disposition of the lands involved in the present transfer for other than the rehabilitation program and the homestead program requires the prior approval of the Secretary.

The text of the conveyance follows:

②

Submitted by: Carlos Camacho
for Resolution No 51-34 (LS)
3/17/17



HOME LOAN GUARANTY

NATIVE AMERICAN DIRECT HOME LOAN

OVERVIEW

Since 1992, the Native American Veteran Direct Loan (NADL) program has provided eligible Native American Veterans and their spouses the opportunity to use their Department of Veterans Affairs (VA) home loan guaranty benefit on Federal trust land.

HOW DOES THE NADL PROGRAM WORK?

By statute, before VA may make a loan to any Native American Veteran, the Veteran's tribal or other sovereign governing body must enter into a Memorandum of Understanding (MOU) with VA. Native American Veterans who are eligible for VA home loan benefits and whose sovereign governments have signed an MOU, may then apply directly to VA for a 30 year fixed rate loan to purchase, build, or improve a home located on Federal trust land. They may also refinance a direct loan already made under this program to lower their interest rate. If the property is not located on Federal trust land, the Veteran can use the traditional VA-guaranteed Home Loan program.

WHAT ARE THE LOAN LIMITS AND INTEREST RATES?

Please see the current list of loan limits and the interest rates for NADLs.

HOW CAN I CONTACT VA TO LEARN MORE ABOUT GETTING A NADL?

VA has nine regional offices that can assist with loan guaranty questions. Please contact the RLC in your area of jurisdiction. You can locate your RLC of jurisdiction.

Home Loans – February 2015



Disabilities determined by VA to be related to your military service can lead to monthly non-taxable compensation, enrollment in the VA health care system, a 10-point hiring preference for federal employment and other important benefits. Ask your VA representative or Veterans Service Organization representative about Disability Compensation, Pension, Health Care, Caregiver Program, Career Services, Educational Assistance, Home Loan Guaranty, Insurance and/or Dependents and Survivors' Benefits.



U.S. Department
of Veterans Affairs

MEMORANDUM OF UNDERSTANDING BETWEEN THE TERRITORY OF GUAM AND

THE SECRETARY OF VETERANS AFFAIRS, AN OFFICER OF THE UNITED STATES RELATING TO THE PROCESSING, UNDERWRITING, AND SERVICING OF VA DIRECT HOME LOANS FOR ELIGIBLE PACIFIC ISLANDER GUAM CHAMORRO VETERANS

I. PURPOSE

This Memorandum (MOU) defines the basic responsibilities of the Secretary of Veterans Affairs and the Territory of Guam. VA has promised to implement a Native American Veterans Direct Loan Pilot Program (Program) to qualified Guam Pacific Islander veterans under Public Law 102-547 of October 21, 1992, Title 38 U.S.C. 55 2963-2974. The Guam Housing Corporation (GHC) has agreed to assist VA in implementing this Pilot Program, to have the Chamorro Land Trust Commission (CLTC) and the Guam Territorial Office of Veterans Affairs. The GHC and the CLTC will determine who qualifies as a Pacific Islander veteran and the CLTC will determine what GHC and CLTC properties in Guam qualify as Chamorro Land Trust Act properties.

II. EFFECTIVE DATE OF AGREEMENT

This Agreement is effective upon the date last signed by the signatories after review and approval by VA.

III. CONSIDERATION

In consideration of the processing and other good and valuable consideration, the parties do agree and establish as follows a pilot program of direct home loans for qualified Pacific Islander veterans on eligible trust lands in Guam as defined by 48 U.S.C. 5221, the Compact Act of Guam, as amended, the Chamorro Land Trust Act, 21 GCA Chapter 25, 57501 et seq., and 1993 regulations therefor, as interpreted by the Government of Guam, San Angel Santos and the Chamorro People vs. Joseph F. Adz, Guam Superior Court, Case No. 1-7-0045-92 (1994), and by Title 38 U.S.C. 5376 and Title 38, CFR, 55 24.6201 and 24.6202.

IV. AGREEMENT

A. VA will assist direct home loans available for qualified Pacific Islander veterans on eligible trust lands in the extent funds are appropriated and subject to such terms and conditions as may be established by VA. VA will process loan applications from the GHC upon verification of qualified Pacific Islander status on eligible trust lands in accordance with GHC and VA underwriting criteria. VA will fund loans to qualified Guam veterans for the purchase, construction, improvement of a home or for the purpose of financing the interest rate on existing direct loans completed by GHC. If VA utilizes GHC or other Territory of Guam Offices to process loan changes, construction inspections, completion inspections, loan processing and property management, the veteran may pay a fee of up to \$300 to GHC or other entity performing this work. VA will not approve and guarantee loans through VA signatories on Guam. Appraisal services will be paid by veterans or beneficiaries using only VA certified or equal appraisers on Chamorro land and must be fully disclosed in the sale disclosure of VA in accordance with advisory or other rules and guidelines. Single family, eligible duplex, VA-approved condominium, co-ownership, zero lot line, or phased out condominium or other type of residential development including commercial properties, may be utilized for direct home loans, in the discretion of VA, if certified as upon Chamorro lands for Chamorro as defined by law and by the Government of Guam. Beneficiary of veterans who have obtained eligibility for VA home loan program benefits may apply for direct loans. It is understood that a spouse of a Chamorro veteran may not by marriage alone establish eligibility for the Pilot Program. At least one party to a VA direct loan must be a qualified veteran Chamorro qualified non-veterans and non-Chamorro any sign to co-own and mortgages if permitted to do so by GHC.

B. The Territory of Guam hereby certifies that it has established standards, forms, reports and procedures that result in the conveyance of a valid and meaningful loanhold or the interest in real property by a Pacific Islander veteran or beneficiary (hereinafter) to VA or guaranty for the VA direct home loan, including valid procedures for the payment of sale, foreclosure, redemption or other actions or non-foreclosure liquidation fees before upon said federal VA interests, and also including obtaining valid meaningful debtors or other procedures to secure the proceeds of said interests for needs of the loan or defaulting or both, as provided by federal law, and interest have been purchased, constructed, and/or improved or affected by rate reduction loans using the proceeds of the VA direct home loan, lawfully and timely accepting such loans or direct interests by warranty to the Secretary of Veterans Affairs, his or her assigns, successors or designees. The Government of Guam Do also include CLTC will be responsible for power of sale foreclosures, loan completion, and resale or lease of delinquent loans, so long as VA is given a timely and accurate accounting of the proceeds of the direct home loan(s) affected.

C. The Territory of Guam also certifies that it has established that a loanhold or for mortgage, duly recorded as required by Guam law in the Guam Department of Land Management, Office of the Registrar, without cost or fee to VA, shall have priority over any and all third (3rd) party interests, including but not limited to, mortgages, judgments, community property interests, UCC security interests, equitable mortgages, lease-up fees, partition, party wall encroachments, easements, deed loans, short term lease interests, reverse mortgages, or proprietary or other adverse interests not perfected at the time of such recording and any and all subsequent loans or claims as provided by law.

D. The Territory of Guam, upon VA's written or other notice of default for more than ninety (90) days by the borrower(s) under a loanhold or the simple mortgage, shall notify and proceed (hereinafter) and lawfully enforce the loan and foreclose by power of sale or lease, foreclosure, refund, redemption, or sale or terminate the loan as permitted by Federal law, upon first giving notice to VA in writing of intent to foreclose or amend, including an accounting and certification to VA that all relevant requirements and conditions prescribed by Guam law, and in Title 38 U.S.C. Chapter 21, as amended, and that all proceeds of the loan or deed have been completed, without fee or cost to the Secretary of Veterans Affairs, his or her designee or assignee.

E. The Territory of Guam certifies to VA that a qualified Pacific Islander veteran on eligible trust land to whom VA will make a direct home loan holds, possesses or will obtain a valid loanhold or other acceptable equity interest in a lot that is located upon eligible and qualified trust land and will purchase, construct, or improve a dwelling on said lot, or reduce the existing dwelling with the proceeds of the VA direct home loan.

F. The Territory of Guam will utilize mortgage loans and other forms acceptable to VA for direct home loans. Each and every eligible qualified veteran will convey the direct described interest to the Secretary of Veterans Affairs by deed, mortgage or other instrument and shall execute and record a deed and promissory note for a loan or mortgage instrument, as necessary for the loan, in accordance with 38 U.S.C. 55 2963-2974. VA will collect applicable VA funding fee by including them in loan interest or collected separately.

G. The Territory of Guam will certify to VA names of qualified veterans on GHC waiting lists with priority for eligible trust lands from CLTC lists or modified GHC/CLTC lists.

H. The Territory of Guam and each veteran who obtains a loan from VA under this agreement will permit VA, its agents, contractors, inspectors, or employees, and GHC and Government of Guam agents, successors, inspectors, or employees to enter upon the land of the veteran for the purpose of carrying out such actions as the Secretary and/or the Territory of Guam determine it necessary to monitor, inspect or conduct compliance with the loan or any aspects of purchase, construction, improvement or other action, including power of sale foreclosures (see 38 U.S.C. 55 2963-2974), or deficiencies in line of also allow for entry by the Territory under VA.

I. The Territory of Guam will to the maximum extent possible assist VA in its efforts to manage this Program in a prudent and cost effective manner, including but not limited to enabling VA in finding qualified eligible participants for the Pilot Program, to identify and assist in the completion of VA's obligations under law, and in ensuring that mortgages and other legal instruments are properly and timely recorded for VA without encumbrance or other lien or cost or liability to VA in carrying out this Program in a responsible and prudent manner. If VA determines that its servicing efforts are unworkable and default situations or re-entries, then VA may notify the Territory of Guam to begin power of sale foreclosures and/or other related non-foreclosure liquidation or other procedures to remedy default under mortgage or other positions. VA hereby agrees to pay in such cases for limited by law, see 38 CFR 55.4513. The Territory of Guam will have a reasonable time set by VA to complete same. If however, the Territory of Guam is unable to complete said provisions in a reasonable time and prudent manner, VA may in its sole discretion temporarily or permanently suspend this Program by written notice to the Secretary of Guam unless such Chamorro or non-Chamorro, if permitted by Guam law, and GHC/CLTC.

J. VA agrees that Annual Insurance meeting Guam law and VA requirements must be provided by the borrower(s) on or before closing, if available. Earthquake, wind, or other casualty insurance coverage is encouraged by VA if not prohibited. Flood insurance must be obtained, if available.

K. VA agrees to allow VA loans and timely provide the Territory of Guam with copies of appropriate loan documents. Direct home loans may be made by VA to the high net worth of Guam for up to \$120,000 for each loan, in accordance with 38 U.S.C. 5376.

L. The Territory of Guam agrees that if a loan will be extended because of an unusual default, the GHC will give VA timely advance written notice of such pending under completed construction, together with a full accounting of direct loan monies affected.

M. The Territory of Guam will apply any collection costs, first in loan interest of the VA loan, next to interest as allowed by Guam law, and last to any principal due. VA agrees that the Territory of Guam is not guaranteeing or obligated to pay VA for any delinquencies, delinquency debt in the amount collected on foreclosures sale or resale. VA has written and appropriate procedures for such debts of borrower(s) after foreclosure that may be applied to protect interests and VA.

N. The GHC agrees to timely notify VA of any loan stoppage made by death, disability, divorce, trust agreement, agreement of sale, bankruptcy, judgments for legal actions, or assignment purposes. All transfers will be in accordance with VA underwriting requirements and recording requirements under of such instruments on the face of mortgage and note forms. Use 38 CFR 55.4520.

O. VA and the Territory of Guam agree that this agreement will be strictly construed and implemented to expeditiously protect the interests of the parties or such as to assist qualified and eligible Pacific Islander Guam veterans on eligible trust land to obtain direct, safe, sanitary, and habitable dwellings. Nothing in this paragraph however, will be deemed to constitute a warranty by VA to any party or in the case of any property.

P. VA agrees to carry out an outreach program to inform and educate Guam veterans of this program and to offer VA training for GHC individuals to the extent funding is available to VA.

Q. VA reserves the right to suspend or terminate this pilot program in its sole discretion to protect the interests of the U.S. Government.

R. This VA program involves loans and not grants.

2. This agreement may be amended by written amendments agreed by the parties.

IN WITNESS WHEREOF, the parties have here signed this agreement as follows:

JESSE KIMMEL, SECRETARY OF VETERANS AFFAIRS

By: [Signature] Date: 5/6/99

His Excellency Carl T. C. Cabreria, Governor of the Territory of Guam

By: [Signature] Date: 5-6-97

Guam Housing Corporation

By: [Signature] Date: 5/6/97

As witnessed by:

Office of Territory of Guam Department of Veterans Affairs

By: [Signature] Date: 5/6/97

Territory of Guam Chamorro Land Trust Commission

By: [Signature] Date: 5/6/97

MOU between GHC and Veterans Affairs Sites the following U.S. Code.

Title 38 U.S. Code:

38 U.S. Code § 3761 - Direct housing loans to Native American veterans; program authority

(a)

The Secretary shall make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall make such loans in accordance with the provisions of this subchapter.

(b)

The Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety of geographic areas and in areas experiencing a variety of economic circumstances.

38 U.S. Code § 3762 - Direct housing loans to Native American veterans; program administration

(a) The Secretary may make a direct housing loan to a Native American veteran under this subchapter if—

(1)

(A)

the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; or

(B)

the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and

(2)

the memorandum is in effect when the loan is made.

(b)

(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

(i)
holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

(ii)
will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

(B)
That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

(i)
to evaluate the advisability of the loan; and

(ii)
to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

(i)
procedures for foreclosing the interest; and

(ii)
procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

(E)
That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that loans under this subchapter are made in a responsible and prudent manner.

(2)
The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

(c)

(1)

(A)

Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American veteran under this section may not exceed \$80,000.

(B)

(i)

Subject to clause (ii), the Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to make direct housing loans under this subchapter to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

(ii)

The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under section 3703(a)(1)(C) of this title.

(2)

Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

(3)

Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

(d)

(1)

The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

(2)

The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

(e)

Loans made under this section shall be repaid in monthly installments.

(f)

In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

(1)

take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

(2)

determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

(3)

make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

(4)

in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or

departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

(h)

(1)

The Secretary may make direct loans to Native American veterans in order to enable such veterans to refinance existing loans made under this section.

(2)

(A)

The Secretary may not make a loan under this subsection unless the loan meets the requirements set forth in subparagraphs (B), (C), and (E) of paragraph (1) of section 3710(e) of this title.

(B)

The Secretary may not make a loan under this subsection unless the loan will bear an interest rate at least one percentage point less than the interest rate borne by the loan being refinanced.

(C)

Paragraphs (2) and (3) of such section 3710(e) shall apply to any loan made under this subsection, except that for the purposes of this subsection the reference to subsection (a)(8) of section 3710 of this title in such paragraphs (2) and (3) shall be deemed to be a reference to this subsection.

(i)

(1)

The Secretary shall, in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council), carry out an outreach program to inform and educate Native American veterans of the availability of direct housing loans for Native American veterans who live on trust lands.

(2) Activities under the outreach program shall include the following:

(A)

Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under this subchapter and in assisting such organizations and veterans with respect to such housing benefits.

(B)

Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

(C)

Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

(D)

Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

(E)

Assisting tribal organizations and Native American veterans with respect to such benefits.

(F)

Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.

(j)

The Secretary shall include as part of the annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for the fiscal year covered by the report.

38 U.S. Code § 3763 - Native American Veteran Housing Loan Program Account

(a)

There is hereby established in the Treasury of the United States an account known as the "Native American Veteran Housing Loan Program Account" (hereinafter in this subchapter referred to as the "Account").

(b)

The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

38 U.S. Code § 3764 - Qualified non-Native American veterans

(a) TREATMENT OF NON-NATIVE AMERICAN VETERANS.—Subject to the succeeding provisions of this section, for purposes of this subchapter—

(1)

a qualified non-Native American veteran is deemed to be a Native American veteran; and

(2)

for purposes of applicability to a non-Native American veteran, any reference in this subchapter to the jurisdiction of a tribal organization over a Native American veteran is deemed to be a reference to jurisdiction of a tribal organization over the Native American spouse of the qualified non-Native American veteran.

(b) USE OF LOAN.—

In making direct loans under this subchapter to a qualified non-Native American veteran by reason of eligibility under subsection (a), the Secretary shall ensure that the tribal organization permits, and the qualified non-Native American veteran actually holds, possesses, or purchases, using the proceeds of the loan, jointly with the Native American spouse of the qualified non-Native American veteran, a meaningful interest in the lot, dwelling, or both, that is located on trust land.

(c) RESTRICTIONS IMPOSED BY TRIBAL ORGANIZATIONS.—

Nothing in subsection (b) shall be construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.

Public Law 102-547
102d Congress

An Act

To amend title 38, United States Code, with respect to housing loans for veterans.

Oct. 28, 1992
[H.R. 939]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans Home
Loan Program
Amendments of
1992
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Home Loan Program Amendments of 1992".

SEC. 2. ELIGIBILITY OF SELECTED RESERVE.

(a) **SELECTED RESERVE.**—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10."; and

(2) in section 3702(a)(2), by adding at the end the following:

"(E) For the 7-year period beginning on the date of enactment of this subparagraph, each veteran described in section 3701(b)(5) of this title."

(b) **FEES.**—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount;

or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or

for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

“(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

“(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost; and”.

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are amended by inserting “(other than loans described in section 3729(a)(2)(D) of this title)” after “for each loan”.

38 USC 3702
note

(c) REPORT.—The Secretary of Veterans Affairs shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1994, and annually thereafter. The report shall contain—

(1) a declaration of the number of veterans (as defined by section 3701(b)(5) of title 38, United States Code) who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a);

(2) a comparison of the default rate of veterans described in paragraph (1) with the default rate for all other veterans who have received loans guaranteed or insured by the Secretary; and

(3) a comparison of the proportion of veterans who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a) who are first time homebuyers with the proportion of all other veterans who receive mortgage loans guaranteed or insured by the Secretary and who are first time homebuyers.

SEC. 3. ADJUSTABLE RATE MORTGAGE DEMONSTRATION PROGRAM

(a) IN GENERAL.—(1) Chapter 37 of title 38, United States Code, is amended by adding after section 3706 the following new section:

“§ 3707. Adjustable rate mortgages

“(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993, 1994, and 1995 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

“(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

“(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

“(2) be made by adjusting the monthly payment on an annual basis on the anniversary of the date on which the loan was closed;

“(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

“(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

“(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

“(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

“(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

“(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

“(4) such other factors as the Secretary finds appropriate.

“(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.”.

(2) The table of sections for chapter 37, of title 38, United States Code, is amended by inserting after the item relating to section 3706 the following new item:

“3707. Adjustable rate mortgages.”.

(b) REPORT.—The Secretary shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1993, containing a description of the project carried out under section 3707 of title 38, United States Code (as added by subsection (a)), and shall continue to make annual reports to the Committees with respect to the default rate and other information concerning the loans guaranteed under such section. Such reports shall—

38 USC 3707
note.

(1) compare the number of adjustable rate mortgages guaranteed under such section with the number of fixed rate loans guaranteed or insured under chapter 37 of such title and contrast this ratio with a corresponding ratio for loans for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act;

(2) compare the initial interest rate of the adjustable rate mortgages guaranteed under such section with the fixed interest rate on loans guaranteed or insured under chapter 37 of such title;

(3) describe the monthly mortgage payment savings to the veteran, if any, under an adjustable rate mortgage guaranteed under such section compared with the payments that would have been required if the loan bore interest at a maximum fixed rate established by the Secretary;

(4) discuss whether the market share for housing loans guaranteed under chapter 37 of such title has increased or decreased since the implementation of such section;

(5) compare the default rate on mortgages guaranteed under such section with the default rate of fixed-rate mortgages guaranteed or insured under chapter 37 of such title; and

(6) compare the number of first time homebuyers using adjustable rate mortgage loans under such section with the

number of first time homebuyers using any other loan guaranteed under chapter 37 of such title.

SEC. 4. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 5. FEES FOR REFINANCING LOANS.

Section 3729(a)(2) of title 38, United States Code (as amended by section 2(b) of this Act), is amended—

(1) in subparagraph (A), by inserting "(other than section 3712(a)(1)(F))" after "section 3712"; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a loan guaranteed under section 3710(a)(8), 3710(a)(9)(B)(i), or 3712(a)(1)(F) of this title, the amount of such fee shall be 0.5 percent of the total loan amount."

SEC. 6. GUARANTY AMOUNT RELATIVE TO LOAN REFINANCINGS.

Chapter 37 of title 38, United States Code, is amended—

(1) in section 3710(e), by amending paragraph (1)(D) to read as follows:

"(D) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (i) the original guaranty amount of the loan being refinanced, or (ii) 25 percent of the loan;"; and

(2) in section 3712(a)(4), by amending subparagraph (A)(iv) to read as follows:

"(iv) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (I) the original guaranty amount of the loan being refinanced, or (II) 25 percent of the loan;".

SEC. 7. EXTENSION OF LENDER APPRAISAL PROGRAM.

Section 3731(f)(3) of title 38, United States Code, is amended by striking out "1992" and inserting in lieu thereof "1995".

SEC. 8. NATIVE AMERICAN VETERANS DIRECT HOUSING LOAN PILOT PROGRAM.

(a) PROGRAM.—Chapter 37 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"§ 3761. Pilot program

"(a) The Secretary shall establish and implement a pilot program under which the Secretary may make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall establish and implement the pilot program in accordance with the provisions of this subchapter.

"(b) In carrying out the pilot program under this subchapter, the Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety

of geographic areas and in areas experiencing a variety of economic circumstances.

“(c) No loans may be made under this subchapter after September 30, 1997.

“§ 3762. Direct housing loans to Native American veterans

“(a) The Secretary may make a direct housing loan to a Native American veteran if—

“(1) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; and

“(2) the memorandum is in effect when the loan is made.

“(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

“(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

“(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

“(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

“(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

“(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

“(i) to evaluate the advisability of the loan; and

“(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

“(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

“(i) procedures for foreclosing the interest; and

“(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

“(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that the pilot program established under this subchapter is implemented in a responsible and prudent manner.

“(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

“(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American under this section may not exceed \$80,000.

“(B) The Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

“(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

“(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

“(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

“(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

“(e) Loans made under this section shall be repaid in monthly installments.

“(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

“(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

“(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

“(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

“(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary’s functions under this section; and

“(4) in a manner consistent with the provisions of this chapter and with the Secretary’s functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

“(h) The Secretary shall carry out an outreach program to inform and educate tribal organizations and Native American veterans of the pilot program provided for under this subchapter and the availability of direct housing loans for Native American veterans who live on trust lands.

“§ 3763. Housing loan program account

“(a) There is hereby established in the Treasury of the United States an account known as the ‘Native American Veteran Housing Loan Program Account’ (hereafter in this subchapter referred to as the ‘Account’).

“(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

“§ 3764. Definitions

“For the purposes of this subchapter—

“(1) The term ‘trust land’ means any land that—

“(A) is held in trust by the United States for Native Americans;

“(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

“(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

“(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

“(2) The term ‘Native American veteran’ means any veteran who is a Native American.

“(3) The term ‘Native American’ means—

“(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

“(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public Law 67-34; 42 Stat. 108);

“(C) an Alaska Native, within the meaning provided for the term ‘Native’ in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

“(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

"(4) The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)) and shall include the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe."

38 USC 3761
note.

(b) **CONSULTATION.**—In carrying out the direct housing loan pilot program authorized under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), the Secretary of Veterans Affairs shall consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans established under section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388).

(c) **CONFORMING AMENDMENT.**—The table of sections of such chapter is amended by adding at the end the following new matter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"3761. Pilot program.

"3762. Direct housing loans to Native American veterans.

"3763. Housing loan program account.

"3764. Definitions."

38 USC 3761
note.

(d) **ANNUAL REPORTS.**—Not later than February 1 of each of 1994 through 1998, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to—

(1) the implementation of the Native American veterans direct housing loan pilot program established under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), during the period ending on September 30 of the year preceding the date of the report;

(2) the Secretary's exercise of the authority provided under section 3762(c)(1)(B) of such title (as so added) to make loans exceeding the maximum loan amount;

(3) the appraisals performed for the Secretary during that period under the authority of section 3732(d)(2) of such title (as so added), including a description of—

(A) the manner in which such appraisals were performed;

(B) the qualifications of the appraisers who performed such appraisals; and

(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States; and

(4) the Secretary's recommendations, if any, for legislation regarding the pilot program.

38 USC 3761
note.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974, for such loans are made in advance. There is authorized to be appropriated for such purpose \$5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation.

(f) **CONFORMING FUNDING AMENDMENT.**—Title I of the Departments of Veterans Affairs and Housing and Urban Development,

and Independent Agencies Appropriations Act, 1993 is amended by striking out "direct loans authorized by" and all that follows through "Veterans' Affairs)" under the heading "NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT" and inserting in lieu thereof "direct loans authorized by subchapter V of chapter 37 of title 38, United States Code".

SEC. 9. ENERGY EFFICIENT MORTGAGES.

(a) **IN GENERAL.**—Subsection (d) of section 3710 of title 38, United States Code, is amended to read as follows:

"(d)(1) The Secretary shall carry out a program to demonstrate the feasibility of guaranteeing loans for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling or for energy efficiency improvements to a dwelling owned and occupied by a veteran. A loan may be guaranteed under this subsection only if it meets the requirements of this chapter, except as those requirements are modified by this subsection.

"(2) The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not exceed the greater of—

"(A) the cost of the energy efficiency improvements, up to \$3,000; or

"(B) \$6,000, if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

"(3) Notwithstanding the provisions of section 3703(a)(1)(A) of this title, any loan guaranteed under this subsection shall be guaranteed in an amount equal to the sum of—

"(A) the guaranty that would be provided under those provisions for the dwelling without the energy efficiency improvements; and

"(B) an amount that bears the same relation to the cost of the energy efficiency improvements as the guaranty referred to in subparagraph (A) bears to the amount of the loan minus the cost of such improvements.

"(4) The amount of the veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of this title, shall not be affected by the amount of the guaranty referred to in paragraph (3)(B).

"(5) The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors of the availability of loan guarantees under this subsection and the procedures and requirements that apply to the obtaining of such guarantees.

"(6) For the purposes of this subsection:

"(A) The term 'energy efficiency improvement' includes a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, and the application of a residential energy conservation measure.

"(B) The term 'solar heating' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

"(C) The terms 'solar heating and cooling' and 'combined solar heating and cooling' have the meaning given such terms

in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

²(D) The term 'passive system' includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Secretary to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

²(E) The term 'residential energy conservation measure' means—

"(i) caulking and weatherstripping of all exterior doors and windows;

"(ii) furnace efficiency modifications limited to—

"(I) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(II) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(III) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(iii) clock thermostats;

"(iv) ceiling, attic, wall, and floor insulation;

"(v) water heater insulation;

"(vi) storm windows and doors;

"(vii) heat pumps; and

"(viii) such other energy conservation measures as the Secretary may identify for the purposes of this subparagraph.

"(7) A loan may not be guaranteed under this subsection after December 31, 1995."

(b) PURCHASE OR CONSTRUCTION WITH ENERGY EFFICIENCY IMPROVEMENTS.—(1) Section 3710(a)(7) of such title is amended to read as follows:

"(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through energy efficiency improvements, as provided in subsection (d)."

(2) Section 3710(a) of such title is further amended by adding after paragraph (9) the following:

"(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d)."

(c) REPORTS.—Not later than 1 year after the date on which the Secretary of Veterans Affairs first exercises the authority to guarantee loans under section 3710(d) of title 38, United States Code (as added by subsection (a) of this section), and for each of the 3 years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the program under such section. Each such report shall contain information pertaining to—

(1) the number of mortgages guaranteed under such section;

- (2) the average amount of money added to the mortgage to finance energy efficiency features;
- (3) the types of energy efficiency features obtained with mortgages under such section; and
- (4) the default rates on the mortgages guaranteed under such section compared with the default rates on all other types of mortgages guaranteed by the Secretary.

SEC. 10. NEGOTIATED INTEREST RATES.

(a) **IN GENERAL.**—Section 3703(c) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking “the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for” and inserting “applicable to”; and

(B) by striking all that follows “(12 U.S.C. 1709(b))” and inserting a period; and

(2) by adding at the end the following:

“(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

“(i) agreed upon by the veteran and the mortgagee; or

“(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

“(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

“(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

“(D) This paragraph shall expire on December 31, 1995.”

(b) **REPORT.**—Not later than December 31, 1993, and annually thereafter, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points under section 3703(c)(4) of title 38, United States Code (as added by subsection (a)). If the Secretary has implemented that authority, the Secretary shall include in the report—

(1) a comparison of the interest rates paid by veterans for loans that bear interest rates negotiated under section 3703(c)(4) of such title with interest rates allowable under mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and interest rates charged under conventional mortgage loan programs for single family housing;

(2) a comparison of the negotiated interest rates being charged under paragraph 4 of section 3703(c) of such title with the interest rate that the Secretary would have established under paragraph (1) of such section during the same time period;

Termination
date.
38 USC 3703
note.

(3) a comparison of the number of discount points charged by the lender for mortgage loans that bear interest rates negotiated under section 3703(c)(4) of such title with the number of discount points charged for mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and the number of discount points charged under conventional mortgage loan programs for single family housing;

(4) a discussion of the extent to which borrowers or sellers are paying the discount points on negotiated interest rate loans under section 3703(c)(4) of such title;

(5) a discussion of whether the market share for housing loans guaranteed under such title has increased or decreased since the implementation of the authority to guarantee and insure loans that bear negotiated interest rates under section 3703(c)(4) of such title, and a discussion of the extent to which any change in market share was the result of that authority;

(6) in claims paid following foreclosure, a discussion of the difference in the interest portion paid on loans guaranteed under section 3703(c)(4) of such title to what the interest portion would have been under the interest rate established under section 3703(c)(1) of such title; and

(7) the number of first time homebuyers using loans that bear negotiated interest rates under section 3703(c)(4) of such title.

SEC. 11. ELIGIBILITY FOR FLAGS AND GRAVE MARKERS.

(a) **FLAGS.**—Section 2301(a) of title 38, United States Code, is amended to read as follows:

“(a) The Secretary shall furnish a flag to drape the casket of each—

“(1) deceased veteran who—

“(A) was a veteran of any war, or of service after January 31, 1955;

“(B) had served at least one enlistment; or

“(C) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty; and

“(2) deceased individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.”.

(b) **HEADSTONES OR MARKERS.**—Section 2306(a) of title 38, United States Code, is amended by adding at the end thereof the following:

"(5) Any individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age."

SEC. 12. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended 38 USC 5302.
by striking out "3102" and inserting in lieu thereof "5302".

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 939 (S. 3108):

HOUSE REPORTS: No. 102-292, Pt. 1 (Comm. on Veterans' Affairs) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORTS: No. 102-405 accompanying S. 3108 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Mar. 3, considered and passed House.

Oct. 1, considered and passed Senate, amended, in lieu of S. 3108.

Oct. 5, House concurred in Senate amendments with an amendment.

Oct. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.



Infrastructure Funding for Substantially Underserved Trust Areas

The Rural Utilities Service (RUS), an agency within USDA Rural Development, was given new tools through the 2008 Farm Bill (the Food, Conservation, and Energy Act of 2008) to finance improvements in electric, telecommunications, and water and sewer infrastructure in substantially underserved trust areas — land held in trust by the United States for Native Americans. This part of the 2008 Farm Bill is known as the “Substantially Underserved Trust Area (SUTA) provisions.” The provisions are designed to make RUS infrastructure financing more accessible to, and affordable for, Native Americans in trust areas because those areas, historically, have had difficulty receiving Federal assistance.

Benefits of the SUTA Provisions

Under the SUTA provisions, USDA has the flexibility to:

- Offer loan interest rates as low as 2 percent;
- Waive certain documentation requirements regarding non-duplication of service;
- Waive the matching funds or credit support requirements for loans;
- Extend the time period in which loans are repaid; and
- Provide the highest priority for funding to eligible projects that will serve trust areas.

RUS published a final rule in the *Federal Register* in June 2012 that provides detailed information about how it is implementing the SUTA provisions. Additional SUTA resources, including the final rule and a questions and answers document, are available online at: www.rurdev.usda.gov/AI_ANHome.html.

What Does “Substantially Underserved” Mean?

A “substantially underserved” trust area is a community in a trust area that the Secretary of Agriculture determines has a high need for assistance. “Underserved” is defined as an area or community lacking an adequate level or quality of service. This can include areas where an existing provider has not, or will not, offer an adequate level or quality of service (normally, USDA cannot fund projects that are considered to duplicate existing services through another provider in the same area).

Which Programs Are Included?

The following USDA programs can offer benefits through SUTA to qualified applicants:

- Rural Electrification Direct and Guaranteed Loans;
- High Energy Cost Grants;
- Water and Waste Disposal Direct and Guaranteed Loans;
- Water and Waste Disposal Grants;
- Broadband Direct and Guaranteed Loans;
- Distance Learning and Telemedicine Grants; and
- Telecommunications Infrastructure Direct and Guaranteed Loans.

Can Non-Tribal Applicants Request SUTA Consideration?

Yes. Applicants who are eligible under RUS’s regular loan and grant program authorities may request consideration under the SUTA provisions. However, to ensure the feasibility of any project that will be carried out, non-Tribal applicants must provide RUS with documentation showing that Tribes in the service area agree to the proposed project.

How Do Applicants Request SUTA Consideration?

Applicants may determine if they qualify for consideration under the SUTA provisions by contacting their USDA Rural Development State Office at www.rurdev.usda.gov/StateOfficeAddresses.html. Each State has local electric, telecommunications, and water and sewer specialists who can provide assistance. Applicants may also contact program specialists at the National Office at www.rurdev.usda.gov/Utilities_LP.html for more information.

Applicants may also write to:

USDA Rural Development
Rural Utilities Service
Room 5135-S, Stop 1510
1400 Independence Ave. SW
Washington, DC 20250-1510
Phone: (800) 670-6553 (Toll Free)
Fax: (202) 720-1725

Written Materials Required to Apply

Applicants must submit a completed application to USDA that meets all the requirements under the loan or grant program through which they are requesting funding. Applicants must also notify USDA, in writing, that they are seeking SUTA consideration, and include the discretionary SUTA authorities (for example, a 2-percent interest loan) that they would like to have applied to their proposal.

Written requests may be memoranda or letters, and must include the following:

- A description of the applicant, documenting eligibility;
- A description of the community to be served, documenting eligibility;
- An explanation and documentation of the high need for the benefits of the program, which may include but is not limited to:
 - Data documenting a lack of service or inadequate service in the affected community;
 - Data documenting significant health risks to community residents due to a lack of access to, or service by, an adequate, affordable service; and
 - Data documenting economic need in the community (for the types of data suggested to document high need, see the "Application Requirements" section of the final rule).
- The impact of the specific SUTA authorities requested for the proposed project;
- Documentation substantiating that when the SUTA authorities are factored into the proposed financing, the project is financially feasible; and
- Any additional information RUS may consider relevant to the application which is necessary to adequately evaluate the application.

RUS may also request modifications or changes, including changes to the amount of funds requested, in any proposal outlined in applications for consideration.

Consideration of Applications

Applicants are welcome and encouraged to provide additional information that demonstrates high need for the benefits of the desired loan or grant program.

Once a complete application and SUTA request have been received, USDA staff will conduct a review to determine if the applicant is eligible to receive SUTA consideration. Applicants will be notified if SUTA consideration has been approved or denied. Next, USDA will evaluate requests for specific SUTA authorities to determine if the proposal is financially feasible at the special rates or terms. USDA will then determine which of the SUTA provisions will be granted. USDA may include all,

some, or none of the SUTA authorities originally requested by the applicant.

For More Information

For more information on SUTA, visit www.rurdev.usda.gov/suta.html. Native American Tribal groups or Tribal members may also contact Rural Development's Native American Coordinator by e-mail at AIAN@wdc.usda.gov or by phone at (720) 544-2911.

Program Aid 2137
May:2013

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file an employment complaint, you must contact your agency's EEO Counselor (click the hyperlink for list of EEO Counselors) within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at http://www.ascr.usda.gov/complaint_filing_file.html.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Rules and Regulations

Federal Register

Vol. 77, No. 114

Wednesday, June 13, 2012

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1700

RIN 0572-AC23

Substantially Underserved Trust Areas (SUTA)

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is issuing regulations related to loans and grants to finance the construction, acquisition, or improvement of infrastructure projects in Substantially Underserved Trust Areas (SUTA). The intent is to implement Section 306F of the Rural Electrification Act by providing the process by which eligible applicants may apply for funding by the agency.

DATES: Effective: July 13, 2012.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 1522, Room 5162-S, Washington, DC 20250-1522. Telephone number: (202) 690-1078, Facsimile: (202) 720-8435.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Rural Development has determined that this rule meets the applicable standards provided in section 3 of that Executive Order. In

addition, all State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to the rule and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (5 U.S.C. 6912(e)), administrative appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RUS has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). RUS provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The information collection and recordkeeping requirements contained in this rule are pending approval by OMB and will be assigned OMB control number 0572-0147 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Catalog of Federal Domestic Assistance

The programs described by this rule are listed in the Catalog of Federal Domestic Assistance Programs under number 10.759, Special Evaluation Assistance for Rural Communities and Households Program (SEARCH); 10.760, Water and Waste Disposal Systems for Rural Communities; 10.761, Technical Assistance and Training Grants; 10.762, Solid Waste Management Grants; 10.763, Emergency Community Water Assistance Grants; 10.770, Water and Waste Disposal Loans and Grants (Section 306C); 10.850; Rural Electrification Loans and Loan

Guarantees; 10.851, Rural Telephone Loans and Loan Guarantees, 10.855, Distance Learning and Telemedicine Loans and Grants; 10.857, State Bulk Fuel Revolving Fund Grants, 10.859, Assistance to High Energy Cost Rural Communities; 10.861, Public Television Station Digital Transition Grant Program; 10.862, Household Water Well System Grant Program 10.863, Community Connect Grant Program; 10.864, Grant Program to Establish a Fund for Financing Water and Wastewater Projects; 10.886, Rural Broadband Access Loans and Loan Guarantees.

The Catalog is available on the Internet at <http://www.cfda.gov>.

Executive Order 12372

Most programs covered by this rulemaking are excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034). However, the Water and Waste Disposal Loan Program, CFDA number 10.770, is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandate Reform Act of 1995.

National Environmental Policy Act Certification

Rural Development has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Therefore, this action does not require an environmental impact statement or assessment.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the

national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175

The policies contained in this rule do not impose substantial unreimbursed direct compliance costs on Indian tribal, Alaska native, or native Hawaiian governments and sovereign institutions or have tribal implications that preempt tribal law. Prior to development of this rulemaking, the agency held Tribal Consultations at seven (7) USDA regional consultations, conducted sixteen (16) SUTA specific consultations and hosted three (3) Internet and toll free teleconference based webinars in order to determine the impact of this rule on Tribal governments, communities, and individuals. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration, the annual SUTA Report to Congress and were used extensively throughout the drafting of this proposed rule.

Background

USDA Rural Development (Rural Development) is a mission area within the U.S. Department of Agriculture comprising the Rural Housing Service, Rural Business/Cooperative Service and Rural Utilities Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants and technical assistance through more than forty programs aimed at creating and improving housing, businesses and infrastructure throughout rural America.

Rural Utilities Service (RUS) loan, loan guarantee and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecom and broadband infrastructure, RUS also plays a big role in improving other measures of quality of life in rural America, including public health and safety, environmental protection, conservation, and cultural and historic preservation.

The 2008 Farm Bill (Pub. L. 110-246, codified at 7 U.S.C. 936f) authorized the Substantially Underserved Trust Area (SUTA) initiative. The SUTA initiative gives the Secretary of Agriculture certain discretionary authorities relating to financial assistance terms and

conditions that can enhance infrastructure financing options in areas that are underserved by electric, water and waste, and telecommunications and broadband utilities. Given the challenges, dynamics, and opportunities in implementing the SUTA initiative, RUS has aimed to foster a process that includes the voices of tribal leaders, tribal community members, Alaska Native Regional and Village Corporations, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, and other stakeholders.

Preliminary research by RUS identified various reports that provided several insights. In 2007, the United States Census Bureau Facts for Features article (dated 10/29/07) reported that the poverty rate of people who reported being sole race American Indian and Alaska Native (AI/AN) was 27 percent. Additionally, in 2006, the United States Government Accountability Office reported that based on the 2000 decennial census, the telephone subscribership rate for Native American households on tribal lands was substantially below the national level of about 98 percent. Specifically, about 69 percent of Native American households on tribal lands in the lower 48 states and about 87 percent in Alaska Native villages had telephone service. Additionally, in 2000, the United States Census Bureau reported that on Native American lands, 11.7 percent of residents lack complete plumbing facilities, compared to 1.2 percent of the general U.S. population.

There are special considerations and challenges in implementing an initiative to communities residing on trust lands. Many American Indians, Alaska Natives, Native Hawaiians, and Pacific Islanders have a deep spiritual, cultural, and historical relationship with the land. In certain circumstances, the objectives of economic and infrastructure development can be at odds with spiritual, cultural, historical, and environmental values. Additionally, there are special legal considerations inherent in financing projects in areas where the land itself cannot be used as security.

The SUTA initiative identifies the need to improve utility service and seeks to improve the availability of RUS programs to reach communities within trust areas when communities are determined by the Secretary of Agriculture (such authority has been delegated to the Administrator of RUS) to be substantially underserved. The RUS programs that are affected by this provision include: Rural Electrification Loans and Guaranteed Loans, and High Cost Energy Grants; Water and Waste

Disposal Loans, Guaranteed Loans and Grants; Telecommunications Infrastructure Loans and Guaranteed Loans; Distance Learning and Telemedicine Loans and Grants; and Broadband Loans and Guaranteed Loans.

In addition to its discretionary authority to implement the SUTA provisions, RUS is under a continuing obligation to make annual reports to Congress on (a) the progress of the SUTA initiative, and (b) recommendations for any regulatory or legislative changes that would be appropriate to improve services to communities located in substantially underserved trust areas. RUS has submitted three reports to Congress, dated June 18, 2009, June 21, 2010, and August 23, 2011.

The USDA Office of Native American Programs (since renamed the Office of Tribal Relations, hereinafter OTR) and RUS began exploring SUTA initiative implementation in 2008 after passage of the Farm Bill. RUS in conjunction with OTR interpreted implementation to include formal USDA Tribal Consultations and working with stakeholders that are federally recognized tribes. Pursuant to this determination and in accordance with President Obama's November 5, 2009, Memorandum on Tribal Consultation, RUS conducted sixteen (16) direct tribal consultations, seven (7) regional consultations, one listening session and three (3) Internet and toll free teleconference based webinars on implementation of the SUTA provision with Indian tribes from across the country. Additionally, the agency heard from six Federal agencies at three separate consultations on how best to implement the SUTA provision.

Federal agencies that were consulted include: The Department of the Interior, as the primary Federal agency with many direct responsibilities to Native American and Pacific Islander stakeholders; the Department of Veterans Affairs, for its clarification of the definition of "trust land"; the Environmental Protection Agency, because it has information regarding underserved trust areas with environmental challenges; the Department of Energy, because it has an interest in promoting energy development and conservation in trust areas; the Department of Commerce and the Federal Communications Commission, because each agency has an interest in telecommunications service in trust areas; the Department of Health and Human Services, because it has a long standing interest in providing health care services and promoting the

adoption of health IT in native communities; and the Office of Management and Budget.

As a result of categorizing and analyzing the comments received through tribal consultations and filed comments, RUS was able to identify certain issues that impact both the underserved communities that seek better access to RUS programs, and the federal agencies that have similar yet sometimes competing interests in trust areas. This regulation is informed by the insight gained through consultations and comments, and is designed to complement existing loan, grant, and combination loan and grant programs with the SUTA provisions that authorize the Administrator to apply certain discretionary authorities (2 percent interest and extended repayment terms; waivers of nonduplication restrictions, matching fund requirements, or credit support requirements; and highest funding priority) for the benefit of eligible communities, and the entities that serve them, in underserved Trust areas.

Discussion of Proposed Rule and Comments Received

In its Proposed Rule, published in the *Federal Register* October 14, 2011, (76 FR 63846), the agency requested comments regarding implementing the Substantially Underserved Trust Areas provision of the 2008 Farm Bill. The agency received nine comments from the following organization/individuals:

- Society of American Indian Government Employees
- Lalamilo Community Association
- NANA Regional Corporation
- Winnebago Tribe of Nebraska
- WAIMEA Hawaiian Homesteaders Assoc., Inc.
- State of Hawaii, Department of Hawaiian Home Lands
- Council for Native Hawaiian Advancement
- National Tribal Telecommunications Association
- Cheyenne River Sioux Tribe

These comments have been summarized and are addressed below:

Society of American Indian Government Employees

The Society expressed support and appreciation for the hard work performed by the RUS staff. The Society recommended that the agency (1) affirmatively proclaim that all land (including all "fee land") within tribal reservation boundaries to be qualified as trust lands for the SUTA provision, (2) designate the data requirements under § 1700.107 as burdensome and require that the burden of proof be on the

current service providers to demonstrate that they are actually providing service at reasonable prices, (3) refrain from requiring tribal communities to document significant health risks when a significant proportion of the community is unserved, and (4) ensure that RUS applicant reviewers have some tribal training on special legal status of tribes as sovereign nations before reviewing these types of applications. The Society also suggested that the SUTA Farm Bill provisions ensure that tribes are automatically eligible to receive waivers from the agency's non-duplication policies when a tribe applies to serve their own areas.

RUS Response

With regard to trust land status, the RUS does not have the authority to adjust the statutory definition of trust lands. RUS understands the unique "checker board" character of trust and non-trust lands in tribal communities. The agency, consistent with its current practice, may consider SUTA related applications that include non-Trust territories when the service to or through those areas are "necessary and incidental" to improving service to a covered Trust area. In other cases, the agency could allocate SUTA benefits to SUTA eligible territories.

With regard to data requirements under § 1700.107, the proposed rule provides that the "explanation and documentation of the high need for the benefits of the eligible program * * * may" include data from the list of proxies. As such the list is not exclusive and applicants are welcome to provide additional information which could demonstrate to the Administrator that the high need for the benefits of the eligible program exists. The agency understands the burden; however, the applicant is in the best position to at least make an initial case that current services are inadequate. The agency can then attempt to document the service delivery by incumbent providers and the agency will make an independent determination based on the information that is available.

With regard to areas unserved by water utilities, the agency certainly supports the general proposition that the absence of clean sources of drinking water poses serious health risks, but the specific details of the types of health risks a community faces due to water quality and availability in that specific location both helps the agency meet the finding of "substantially underserved" and target limited funding to areas where it is needed the most.

As for training on the special legal status of tribes as sovereign nations for

application reviewers, the agency has and will continue to train staff on the SUTA provision and a wide range of issues affecting tribal participation in RUS program including the sovereign nation status of tribes. RUS has provided service to numerous tribes as sovereign nations, and understands the legal status and collateral challenges to develop solutions that provide for program participation and the balance to protect taxpayer investments.

Regarding amendments to the Farm Bill, under SUTA the RUS may make legislative recommendations and will take our experience with the new authorities into account.

Waimea Hawaiian Homesteaders Association, Council for Native Hawaiian Advancement, Lalamilo Community Association and the Department of Hawaiian Homelands

The agency received comments from several entities in support of RUS' historic consultation efforts to implement the SUTA provisions to communities residing on trust lands managed by the Department of Hawaiian Home lands. The agency has a long history of providing access to capital for infrastructure projects to communities throughout the Hawaiian home lands. The current statute only applies the SUTA provisions to RUS programs. The Rural Development mission area will likely learn from the implementation of SUTA by the RUS and may outline important best practices in its annual report to Congress.

In comments submitted by the state of Hawaii's Department of Hawaiian Homelands (DHHL), recommendations were made requesting the agency to (1) interpret § 1700.104 to apply feasibility requirements on the specific project rather than the applicant and (2) interpret § 1700.107 to permit USDA to provide grant assistance of up to 75 percent for communities on Trust lands in Alaska and Hawaii that have a median family income of 80 percent.

RUS Response

Regarding the feasibility recommendation, the agency points to its response to the NTTA (below) which raised similar recommendations. The RUS is bound under Section 306F(c)(4) of the Rural Electrification Act (RE Act) which states that the Secretary "shall only make loans or loan guarantees that are found to be financially feasible" under the SUTA amendments to the RE Act and it does not expand other discretions. The SUTA discretionary authorities defined by these provisions of the RE Act are summarized earlier.

The RUS will continue its long standing practice of working collaboratively with native communities to find solutions that balance federal loan security requirements with the unique circumstances facing native communities. Therefore, DHHL's recommendations regarding loan security and financial feasibility will be addressed in the application review process.

With regard to DHHL's recommendation to authorize grant assistance of up to 75 percent for communities on Trust lands in Alaska and Hawaii with a median family income of 80 percent, the agency points to its response to NTTA regarding the level of grant funds dedicated for a particular provision in the statute. The amount of loan and grant funds that can be dedicated for any single purpose are generally defined by the authorizing statutes the agency administers and the annual appropriations laws which allocate budget authority (BA) to various programs. The SUTA provisions of the RE Act do not grant the agency any new authorities to convert BA among and between grant, direct loan or loan guarantee categories. Where it has such authority, the agency takes into account the needs of eligible communities.

We also note DHHL's support for § 1700.108 which covers application requirements that invite SUTA applicants to provide a variety of data sets that are already provided to other federal agencies who work closely with native communities. With the inclusion of subsection (H), RUS recognizes the need for native communities to articulate their unique circumstances to federal agencies for purposes of program eligibility.

NANA Regional Corporation

The NANA Regional Corporation (an ANCSA Regional Corporation in Alaska) filed comments expressing concern over the current eligibility requirements contained in the Proposed Rule on SUTA. NANA argues that the current requirements may preclude villages in its region and across Alaska for SUTA consideration since many Alaska Native villages are not located on large tracts of trust land.

RUS Response

The definition of trust areas in the Proposed Rule is taken directly from the current statute (7 U.S.C. 306F (B)(2)) added to the RE Act as part of the Food, Conservation and Energy Act of 2008 (the Farm Bill). This definition includes land that "is owned by a Regional Corporation or a Village Corporation, as such terms are defined in Section 3(g)

and 3(j) of the Alaska Native Claims Settlement Act * * *." The RUS does not have the authority to adjust the statutory definition of trust lands. RUS understands the many unique infrastructure challenges that rural communities (both Native and non-Native) face throughout Alaska. The agency, consistent with current practice, however, may consider SUTA related applications that include non-Trust territories when the service to or through those areas are "necessary and incidental" to improving service to a covered Trust area. In other cases, the agency could allocate SUTA benefits to SUTA eligible territories. RUS is also legislatively mandated to report to Congress annually on its implementation of the SUTA legislation. As part of that report, RUS may suggest "recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas." In this regard, the NANA suggestions on coverage of non-Trust territories are very helpful.

Winnebago Tribe of Nebraska

The Winnebago Tribe of Nebraska expressed support for the SUTA regulations championing waivers of matching requirements and giving the highest priority to SUTA projects to facilitate expedient construction, acquisition or improvements of infrastructure throughout tribal communities. The Tribe noted the ongoing need for access to robust broadband service to be deployed in order for economic capacity building to occur throughout the Winnebago community. Specifically, the Tribe highlighted the inadequate level of mobile wireless and broadband coverage in their region. The tribe's listed priorities in health, education, safety and economic capacity building and recommend that tribal governments merit the right to control the planning, adoption, utilization and sustainability of any and all services that advance their goals.

RUS Response

SUTA will give the RUS new tools to make financial resources more accessible to entities seeking to bring modern utility services to tribal areas. We share the concerns expressed by the Tribe that unserved native communities can no longer be ignored and that the availability of adequate broadband access remains an important national priority. USDA has made the deployment of advanced services on Tribal lands a central pillar to our rural

economic development mission which will be accelerated by this regulation.

National Tribal Telecommunications Association

The National Tribal Telecommunications Association commended USDA for its diligence implementing the SUTA provisions and offered specific comment on the following topics:

Disparity Analysis

The National Tribal Telecommunications Association (NTTA) suggested that the USDA adopt a metric of "disparity" to assess infrastructure "underservice" and recommended a comparison of access to infrastructure in a Trust Area and an area of community immediately contiguous to the Trust Area.

RUS Response

In § 1700.108(i) of the proposed rule, the agency seeks data from the applicant documenting a lack of service or inadequate service in the affected community (§ 1700.108(i)). The relative level of service between Trust and non-Trust territories as well as the relative cost between those areas are relevant factors and could be provided by applicants in a SUTA request. A disparity analysis may be very helpful in demonstrating a lack of service. If disparity information is provided in a RUS application, the agency will take such information into consideration when reviewing SUTA requests. RUS believes that codifying a disparity test may have the unintended consequence of signaling that SUTA authorities would be less available where a Trust Area exists and its surrounding non-Trust areas all suffer from a lack of service.

Overlapping or Incumbent Service Provider Areas

The NTTA recommends that the proposed definition of "underserved" in section 1700.101 be amended to add the phrase, "notwithstanding that a service provider is an RUS borrower."

RUS Response

A change in the definition of "underserved" is not necessary to address the concern of the commenter and is addressed elsewhere. Whether an area is determined to be "underserved" does not depend on the relationship of the incumbent service provider to the RUS. However, among the discretionary powers given to the agency under section 306F(c)(2) of the RE Act and under section 1700.106 of the proposed rule, is the power to waive "non-

duplication restrictions.” That core discretionary authority is not limited to areas served by RUS borrowers or non-borrowers.

Financial Feasibility Considerations

NTTA makes several comments and recommended changes regarding financial feasibility, loan security and risk assessments as well as weighing financial feasibility against a community’s lack of essential infrastructure. Specifically, NTTA recommends changing proposed section 1700.104 from “the financial feasibility of an application will be determined pursuant to normal underwriting practices for a particular eligible program” to “pursuant to normal underwriting practices, and such reasonable alternative practices as may support financial feasibility determination for a particular eligible program.” NTTA also proposes to add additional discretionary authorities related to collateral, security and risk assessment and Times Interest Earned Ratio (TIER) calculations.

RUS Response

The Section 306F(c)(4) of the Rural Electrification Act states that the Secretary “shall only make loans or loan guarantees that are found to be financially feasible” under the SUTA amendments to the Rural Electrification Act and it does not expand other discretions. The SUTA discretionary authorities defined by these provisions of the Rural Electrification Act are summarized here.

• **AUTHORITY OF SECRETARY.**—In carrying out subsection (b), the Secretary—

◦ May make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;

◦ May waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;

◦ May give the highest funding priority to designated projects in substantially underserved trust areas; and

◦ Shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.

The proposed regulation faithfully codifies those authorities and the constraint of financial feasibility is also aligned with the RUS programs to assure debt repayment and protect taxpayer funds. The agency does not have the administrative ability to exceed that authority. However, the commenter’s concerns about finding creative solutions to feasibility issues are well taken. The RUS has a long history of working closely with tribal communities to address loan security issues. Since the earliest days of the Rural Electrification Administration and now the RUS, the agency has found ways to reconcile taxpayer’s expectation of loan security with the sovereign rights of tribal governments. In this regard, the agency has adapted its mortgage documents and its loan contracts to accommodate unique tribal needs and circumstances.

The agency intends to continue to work with tribal organizations to find creative ways to address tribal needs while preserving loan security. Therefore, the final rule will adapt the language proposed by NTTA for § 1700.104 to read, “pursuant to normal underwriting practices, and such reasonable alternatives within the discretion of RUS that contribute to a financial feasibility determination for a particular eligible program or project.”

Eligible Communities

NTTA proposes that consistent with its advocacy before the Federal Communications Commission (FCC), Tribes be given an option to choose the service provider serving a Trust community or providing services for its own community and that the Trust Area governments be permitted to engage service providers on quality of service standards.

RUS Response

All RUS applicants are required to demonstrate in their application that they have secured all regulatory approvals necessary to construct infrastructure and deliver services. The RUS does not have the power to define the jurisdiction of tribal governments and is mindful of their sovereignty. The agency engages with tribes on a government to government basis. An applicant must demonstrate that they have secured all necessary regulatory approvals on the federal, tribal, state and local levels. Furthermore, applicants must demonstrate that their projects are financially feasible. The agency notes that an applicant seeking to finance infrastructure on trust territory would likely have a difficult time demonstrating financial feasibility

if it could not demonstrate tribal support, at a governmental or community level.

Grant Authority

The NTTA recommends that RUS convert loan funds to grant options for the benefit of “underserved” or “unserved” trust communities.

RUS Response

The availability of loan and grant funds are generally defined by the authorizing statutes the agency administers and the annual appropriations laws which allocate budget authority (BA) to various programs. The SUTA provisions of the RE Act do not grant the agency any new authorities to convert BA among and between loan, grant or loan guarantee categories. Where it has such authority, the agency takes into account the needs of eligible communities.

Flexible Proxies for Infrastructure Underservice

The NTTA commends the RUS for providing a list of proxies for determining “underservice” and recommends that an additional provision be added to allow for additional data to be submitted.

RUS Response

The proposed rule provides that the “explanation and documentation of the high need for the benefits of the eligible program * * * may” include data from the list of proxies. As such the list is not exclusive and applicants are welcome to provide additional information which could demonstrate to the Administrator that the high need for the benefits of the eligible program exists.

Technical Assistance

The NTTA recommends that RUS implement a technical assistance program. On a related matter, the NTTA also recommends that the RUS recommend to entities seeking to serve Trust Areas that they apply under SUTA.

RUS Response

“While the RUS has limited formal technical assistance funding for some of its programs,” the RUS is committed to expanding outreach to tribal communities and applicants on all of its programs. The RUS appreciates the suggestion and shares the commenter’s concern about technical assistance. That is why in the Broadband Initiatives Program of the American Recovery and Reinvestment Act of 2009, the RUS dedicated \$3,384,202 of budget authority to fund 19 technical assistance

grants. The majority of those awards were to Native American communities and organizations.

USDA State Rural Development Offices, RUS General Field Representatives, Rural Water Circuit Riders and RUS headquarters staff all offer assistance to applicants and are integral parts of the rural development program delivery. SUTA is an important initiative and RUS and RD staff members have been trained on the provision and will be trained on the final rule.

Cheyenne River Sioux Tribe

In comments filed pursuant to the proposed SUTA regulation, the Cheyenne River Sioux Tribe requests that the RUS interpret the statutory language for SUTA to allow a waiver of the statutory limitation on provision of grant in 7 U.S.C. 1926(a)(2) for Water and Waste Disposal grants.

7 U.S.C. 1926(a)(2)(A)(ii) states that "the amount of any grant made under the authority of this subparagraph shall not exceed 75 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area."

The commenter writes that the authority provided to the Secretary pursuant to Section 6105(C)(2) of the 2008 Farm Bill, allows the Secretary to waive the 75 percent grant limitation when considering financial assistance pursuant to 7 CFR 1780.

Neither authorizing statute for the Water and Waste Disposal loan and grant program, nor the program regulations, specifically state that a match is required. By way of contrast, in 7 U.S.C. 1926(a)(2)(C)(ii)(II), Congress specifically refers to matching funds related to Special Evaluation Assistance for Rural Communities and Households (SEARCH). In addition, in Section 306C of the Consolidated Farm and Rural Development Act (ConAct), Congress specifically authorized the Secretary to provide up to 100 percent grants for water and waste infrastructure to Native American Tribes to address health and sanitary issues.

However, the commenter further suggests that "a restriction of the total amount of project cost that would be funded with grant funds creates a matching requirement whether the word "matching" is used.

RUS Response

The Agency will consider requests for waiver of some, or all, of the loan portion of a loan-grant combination

under SUTA authority on a case-by-case basis. The decision to consider a waiver does not waive the over-arching requirement for a finding of need or feasibility pursuant to program regulations. The final determination of grant assistance will be made based on the following factors:

1. Eligibility requirements, including credit elsewhere certifications pursuant to 1780.7(d);
2. Underwriting and demonstration of need for grant, including the use of the prevailing program interest rate and the discretionary as low as 2% interest rates on loans pursuant to SUTA;
3. Availability of funds, including those funds available pursuant to the Section 306C grant set-aside for Native American Tribes or other applicable congressional set-asides; and
4. Percentage of the project that is located on SUTA eligible trust lands.

Eligibility Requirements

Eligibility requirements pursuant to 7 CFR 1780, such as credit elsewhere certifications (§ 1780.7(d)) and restrictions on the use of grant to reduce equivalent dwelling unit costs to a level less than similar systems cost (§ 1780.10 (b)(1)), will apply to applicants seeking a waiver of the loan component under SUTA.

Finding of Need and Feasibility Through Underwriting

To ensure that limited grant funds are awarded to those projects with the greatest need, financial analysis and underwriting will continue to be used to determine the need for grant, including grant above the 75 percent level. The analysis will include the applicant's ability to incur debt at the prevailing program interest rate and the discretionary as low as 2 percent interest rates on loans pursuant to SUTA.

Availability of Funds

The commenter correctly noted that the Agency has limited grant funding available in the regular loan and grant program and a backlog of requests that exceeds \$3 billion. In addition, reductions in program funds will impact the ability of the Agency to provide needed grant funding. To support SUTA efforts to increase tribal participation in the program, the Agency will maximize the use of the Section 306C grant program, and other appropriate grant program set-asides to meet the grant needs of projects seeking waivers of the 75 percent grant limitation under SUTA. To ensure that grant funds are available to fund as many projects as possible, the agency may limit the total amount of

grant funding to be used to address requests for additional grants pursuant to SUTA, as well as total Agency grant investment in the project.

Percentage of Project on SUTA-Defined Trust Lands

Grant determinations will factor in the percentage of the proposed project that is located on substantially underserved trust lands as defined under SUTA.

List of Subjects in 7 CFR Part 1700

Authority delegations (Government agencies), Electric power, Freedom of information, Loan programs—communications, Loan programs—energy, Organization and functions (Government agencies), Rural areas, Telecommunications, Broadband loan and grant programs, water and waste loan and grant program, and the Distance Learning and Telemedicine program.

For reasons set out in the preamble, the agency amends chapter XVII of title 7 of the Code of Federal Regulations by amending part 1700 to read as follows:

PART 1700—GENERAL INFORMATION

- 1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301, 552; 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 7 CFR 2.7, 2.17 and 2.47.

§§ 1700.59 through 1700.99 [Reserved]

- 2. Add reserved §§ 1700.59 through 1700.99 to Subpart C of part 1700.
- 3. Add subpart D, consisting of §§ 1700.100 to 1700.150, to read as follows:

Subpart D—Substantially Underserved Trust Areas

Sec.	
1700.100	Purpose.
1700.101	Definitions.
1700.102	Eligible programs.
1700.103	Eligible communities.
1700.104	Financial feasibility.
1700.105	Determining whether land meets the statutory definition of "trust land."
1700.106	Discretionary provisions.
1700.107	Considerations relevant to the exercise of SUTA discretionary provisions.
1700.108	Application requirements.
1700.109	RUS review.
1700.110—1700.149	[Reserved]
1700.150	OMB Control Number.

Subpart D—Substantially Underserved Trust Areas

§ 1700.100 Purpose.

This subpart establishes policies and procedures for the Rural Utilities Service (RUS) implementation of the

Substantially Underserved Trust Areas (SUTA) initiative under section 306F of the Rural Electrification Act of 1936, as amended (7 U.S.C. 906f). The purpose of this rule is to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

§ 1700.101 Definitions.

Administrator means the Administrator of the Rural Utilities Service, or designee or successor.

Applicant means an entity that is eligible for an eligible program under that program's eligibility criteria.

Borrower means any organization that has an outstanding loan or loan guarantee made by RUS for a program purpose.

Completed application means an application that includes the elements specified by the rules for the applicable eligible program in form and substance satisfactory to RUS.

ConAct means the Consolidated Farm and Rural Development Act, as amended (7 USC 1921 *et seq.*).

Credit support means equity, cash requirements, letters of credit, and other financial commitments provided in support of a loan or loan guarantee.

Eligible community means a community as defined by 7 CFR 1700.103.

Eligible program means a program as defined by 7 CFR 1700.102.

Financial assistance means a grant, combination loan and grant, loan guarantee or loan.

Financial feasibility means the ability of a project or enterprise to meet operating expenses, financial performance metrics, such as debt service coverage requirements and return on investment, and the general ability to repay debt and sustain continued operations at least through the life of the RUS loan or loan guarantee.

Matching fund requirements means the applicant's financial or other required contribution to the project for approved purposes.

Nonduplication generally means a restriction on financing projects for services in a geographic area where reasonably adequate service already exists as defined by the applicable program.

Project means the activity for which financial assistance has been provided.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture, successor to the Rural Electrification Administration.

Substantially underserved trust area means a community in trust land with respect to which the Administrator determines has a high need for the benefits of an eligible program.

Trust land means "trust land" as defined in section 3765 of title 38, United States Code as determined by the Administrator under 7 CFR 1700.104.

Underserved means an area or community lacking an adequate level or quality of service in an eligible program, including areas of duplication of service provided by an existing provider where such provider has not provided or will not provide adequate level or quality of service.

§ 1700.102 Eligible programs.

SUTA does not apply to all RUS programs. SUTA only applies to eligible programs. An eligible program means a program administered by RUS and authorized in paragraph (a) of the RE Act, or paragraphs (b)(1), (2), (14), (22), or (24) of section 306(a) (7 U.S.C. 1926(a)(1), (2), (14), (22), (24)), or sections 306A, 306C, 306D, or 306E of the Con Act (7 U.S.C. 1926a, 1926c, 1926d, 1926e).

§ 1700.103 Eligible communities.

An eligible community is a community that:

- (a) Is located on Trust land;
- (b) May be served by an RUS administered program; and
- (c) Is determined by the Administrator as having a high need for benefits of an eligible program.

§ 1700.104 Financial feasibility.

Pursuant to normal underwriting practices, and such reasonable alternatives within the discretion of RUS that contribute to a financial feasibility determination for a particular eligible program or project, the Administrator will only make grants, loans and loan guarantees that RUS finds to be financially feasible and that provide eligible program benefits to substantially underserved trust areas. All income and assets available to and under the control of the Applicant will be considered as part of the Applicant's financial profile.

§ 1700.105 Determining whether land meets the statutory definition of "trust land."

The Administrator will use one or more of the following resources in determining whether a particular community is located in Trust land:

- (a) Official maps of Federal Indian Reservations based on information compiled by the U. S. Department of the Interior, Bureau of Indian Affairs and made available to the public;

- (b) Title Status Reports issued by the U. S. Department of the Interior, Bureau of Indian Affairs showing that title to such land is held in trust or is subject to restrictions imposed by the United States;

- (c) Trust Asset and Accounting Management System data, maintained by the Department of the Interior, Bureau of Indian Affairs;

- (d) Official maps of the Department of Hawaiian Homelands of the State of Hawaii identifying land that has been given the status of Hawaiian home lands under the provisions of section 204 of the Hawaiian Homes Commission Act, 1920;

- (e) Official records of the U.S. Department of the Interior, the State of Alaska, or such other documentation of ownership as the Administrator may determine to be satisfactory, showing that title is owned by a Regional Corporation or a Village Corporation as such terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*);

- (f) Evidence that the land is located on Guam, American Samoa or the Commonwealth of the Northern Mariana Islands, and is eligible for use in the Veteran's Administration direct loan program for veterans purchasing or constructing homes on communally-owned land; and

- (g) Any other evidence satisfactory to the Administrator to establish that the land is "trust land" within the meaning of 38 U.S.C. 3765(1).

§ 1700.106 Discretionary provisions.

(a) To improve the availability of eligible programs in eligible communities determined to have a high need for the benefits of an eligible program, the Administrator retains the discretion, on a case-by-case basis, to use any of the following SUTA authorities individually or in combination to:

- (1) Make available to qualified applicants financing with an interest rate as low as 2 percent;

- (2) Extend repayment terms;

- (3) Waive (individually or in combination) non-duplication

- restrictions, matching fund requirements, and credit support requirements from any loan or grant program administered by RUS; and

- (4) Give the highest funding priority to designated projects in substantially underserved trust areas.

(b) Requests for waivers of nonduplication restrictions, matching fund requirements, and credit support requirements, and requests for highest funding priority will be reviewed on a case-by-case basis upon written request

of the applicant filed pursuant to 7 CFR 1700.108.

(c) Notwithstanding the requirements in paragraph (b) of this section, the Administrator reserves the right to evaluate any application for an eligible program for use of the discretionary provisions of this subpart without a formal, written request from the applicant.

§ 1700.107 Considerations relevant to the exercise of SUTA discretionary provisions.

(a) In considering requests to make available financing with an interest rate as low as 2 percent, and extended repayment terms, the Administrator will evaluate the effect of and need for such terms on the finding of financial feasibility.

(b) In considering a request for a non-duplication waiver, the Administrator will consider the offerings of all existing service providers to determine whether or not granting the non-duplication waiver is warranted. A waiver of non-duplication restrictions will not be given if the Administrator determines as a matter of financial feasibility that, taking into account all existing service providers, an applicant or RUS borrower would not be able to repay a loan or successfully implement a grant agreement. Requests for waivers of non-duplication restrictions will be reviewed by taking the following factors into consideration:

(1) The size, extent and demographics of the duplicative area;

(2) The cost of service from existing service providers;

(3) The quality of available service; and

(4) The ability of the existing service provider to serve the eligible service area.

(c) Requests for waivers of matching fund requirements will be evaluated by taking the following factors into consideration:

(1) Whether waivers or reductions in matching or equity requirements would make an otherwise financially infeasible project financially feasible;

(2) Whether permitting a matching requirement to be met with sources not otherwise permitted in an affected program due to regulatory prohibition may be allowed under a separate statutory authority; and

(3) Whether the application could be ranked and scored as if the matching requirements were fully met.

(d) Requests for waivers of credit support requirements will be evaluated taking the following factors into consideration:

(1) The cost and availability of credit support relative to the loan security derived from such support;

(2) The extent to which the requirement is shown to be a barrier to the applicant's participation in the program; and

(3) The alternatives to waiving the requirements.

(e) The Administrator may adapt the manner of assigning highest funding priority to align with the selection methods used for particular programs or funding opportunities.

(1) Eligible programs which use priority point scoring may, in a notice of funds availability or similar notice, assign extra points for SUTA eligible applicants as a means to exercise a discretionary authority under this subpart.

(2) The Administrator may announce a competitive grant opportunity focused exclusively or primarily on trust lands which incorporates one or more discretionary authorities under this subpart into the rules or scoring for the competition.

§ 1700.108 Application requirements.

(a) To receive consideration under this subpart, the applicant must submit to RUS a completed application that includes all of the information required for an application in accordance with the regulations relating to the program for which financial assistance is being sought. In addition, the applicant must notify the RUS contact for the applicable program in writing that it seeks consideration under this subpart and identify the discretionary authorities of this subpart it seeks to have applied to its application. The required written request memorandum or letter must include the following items:

(1) A description of the applicant, documenting eligibility.

(2) A description of the community to be served, documenting eligibility in accordance with 7 CFR 1700.103.

(3) An explanation and documentation of the high need for the benefits of the eligible program, which may include:

(i) Data documenting a lack of service (i.e. no service or unserved areas) or inadequate service in the affected community;

(ii) Data documenting significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable service.

(iii) Data documenting economic need in the community, which may include:

(A) Per capita income of the residents in the community, as documented by the U.S. Department of Commerce, Bureau of Economic Analysis;

(B) Local area unemployment and not-employed statistics in the community, as documented by the U.S. Department of Labor, Bureau of Labor Statistics and/or the U.S. Department of the Interior, Bureau of Indian Affairs;

(C) Supplemental Nutrition Assistance Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Economic Research Service;

(D) National School Lunch Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Food and Nutrition Service;

(E) Temporary Assistance for Needy Families Program participation and benefit levels in the community, as documented by the U.S. Department of Health and Human Services, Administration for Children and Families;

(F) Lifeline Assistance and Link-Up America Program participation and benefit levels in the community, as documented by the Federal Communications Commission and the Universal Service Administrative Company;

(G) Examples of economic opportunities which have been or may be lost without improved service.

(H) Data maintained and supplied by Indian tribes or other tribal or jurisdictional entities on "trust land" to the Department of Interior, the Department of Health and Human Services and the Department of Housing and Urban Development that illustrates a high need for the benefits of an eligible program.

(4) The impact of the specific authorities sought under this subpart.

(b) The applicant must provide any additional information RUS may consider relevant to the application which is necessary to adequately evaluate the application under this subpart.

(c) RUS may also request modifications or changes, including changes in the amount of funds requested, in any proposal described in an application submitted under this subpart.

(d) The applicant must submit a completed application within the application window and guidelines for an eligible program.

§ 1700.109 RUS review.

(a) RUS will review the application to determine whether the applicant is eligible to receive consideration under this subpart and whether the application is timely, complete, and

responsive to the requirements set forth in 7 CFR 1700.107.

(b) If the Administrator determines that the application is eligible to receive consideration under this subpart and one or more SUTA requests are granted, the applicant will be so notified.

(c) If RUS determines that the application is not eligible to receive further consideration under this subpart, RUS will so notify the applicant. The applicant may withdraw its application or request that RUS treat its application as an ordinary application for review, feasibility analysis and service area verification by RUS consistent with the regulations and guidelines normally applicable to the relevant program.

§§ 1700.110–1700.149 [Reserved]

§ 1700.150 OMB Control Number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and have been assigned OMB control number 0572–0147.

Dated: May 23, 2012.

Jonathan Adelstein,
Administrator, Rural Utilities Service.

[FR Doc. 2012–14255 Filed 6–12–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 1, 5, 16, 28, and 160

[Docket ID OCC–2012–0005]

RIN 1557–AD36

Alternatives to the Use of External Credit Ratings in the Regulations of the OCC

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Final rule.

SUMMARY: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) contains two directives to Federal agencies including the OCC. First, section 939A directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of creditworthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings. Second, the agencies are required to remove any references to, or requirements of

reliance on, credit ratings and substitute such standard of creditworthiness as each agency determines is appropriate. The statute further provides that the agencies shall seek to establish, to the extent feasible, uniform standards of creditworthiness, taking into account the entities the agencies regulate and the purposes for which those entities would rely on such standards.

On November 29, 2011, the OCC issued a notice of proposed rulemaking (NPRM), seeking comment on a proposal to revise its regulations pertaining to investment securities, securities offerings, and foreign bank capital equivalency deposits to replace references to credit ratings with alternative standards of creditworthiness.

The OCC also proposed to amend its regulations pertaining to financial subsidiaries of national banks to better reflect the language of the underlying statute, as amended by section 939(d) of the Dodd-Frank Act.

Today, the OCC is finalizing those rules as proposed.

DATES: The final rule amending 12 CFR part 5 is effective on July 21, 2012. The final rules amending 12 CFR parts 1, 16, 28, and 160 are effective on January 1, 2013.

FOR FURTHER INFORMATION CONTACT:

Kerri Corn, Director for Market Risk, Credit and Market Risk Division, (202) 874–4660; Michael Drennan, Senior Advisor, Credit and Market Risk Division, (202) 874–4660; Carl Kaminski, Senior Attorney, or Kevin Korzeniewski, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Eugene H. Cantor, Counsel, Securities and Corporate Practices Division, (202) 874–5210, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (the Dodd-Frank Act) contains two directives to Federal agencies including the OCC. First, section 939A directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of creditworthiness of a security or money market instrument and any references to or requirements in such regulations regarding credit ratings. Second, the agencies are required to remove references to, or requirements of

reliance on, credit ratings and substitute such standard of creditworthiness as each agency determines is appropriate. The statute further provides that the agencies shall seek to establish, to the extent feasible, uniform standards of creditworthiness, taking into account the entities the agencies regulate and the purposes for which those entities would rely on those standards.

On November 29, 2011, the OCC issued a notice of proposed rulemaking (NPRM), seeking comment on a proposal to revise its regulations pertaining to investment securities, securities offerings, and foreign bank capital equivalency deposits to replace references to credit ratings with alternative standards of creditworthiness. The OCC also proposed to amend its regulations pertaining to financial subsidiaries of national banks to better reflect the language of the underlying statute, as amended by section 939(d) of the Dodd-Frank Act.

The proposal generally pertained to rules that require national banks and Federal savings associations to determine whether a particular security or issuance qualifies, or does not qualify, for a specific treatment. For example, except for U.S. government securities and certain municipal securities, the OCC's investment securities regulations generally require a national bank or Federal savings association to determine whether or not a security is "investment grade" in order to determine whether purchasing the security is permissible.

The OCC received 11 comments on the proposed rules from banks, bank trade groups, individuals, and bank service providers. The majority of the commenters generally supported the proposed rules and stated that they presented a workable alternative to the use of credit ratings. A few commenters raised specific issues, which are addressed in more detail below.

After considering the comments and the issues raised, the OCC has decided to finalize the rules as proposed. In order to assist national banks and Federal savings associations in making these "investment grade" determinations, the OCC also is publishing a final guidance document today in this issue of the *Federal Register*.

II. Description of the Final Rules

For the purposes of its regulations at 12 CFR parts 1, 16, 28, and 160, the OCC is amending the definition of "investment grade" to remove references to credit ratings and nationally recognized statistical rating

¹ Public Law 111–203, Section 939A, 124 Stat. 1376, 1887 (July 21, 2010).

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THE DISTRICT COURT OF GUAM

ARNOLD DAVIS, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

GUAM, GUAM ELECTION COMMISSION,
ALICE M. TAIJERON, MARTHA C. RUTH,
JOSEPH F. MESA, JOHNNY P. TAITANO,
JOSHUA F. RENORIO, DONALD I.
WEAKLEY, and LEONARDO M.
RAPADAS,

Defendants.

CIVIL CASE NO. 11-00035

**DECISION AND ORDER
RE: MOTIONS FOR
SUMMARY JUDGMENT**

This court heard the following matters on September 1, 2016: Plaintiff's Motion for Summary Judgment Pursuant to FED. R. CIV. P. 56(a) (*see* ECF No. 103); and Defendants' Motion for Summary Judgment Pursuant to FED. R. CIV. P. 56 (*see* ECF No. 106). Appearing on behalf of the Plaintiff were Mr. J. Christian Adams of Election Law Center, PLLC, and Mr. Mun Su Park of Law Offices of Park and Associates. Appearing on behalf of the Defendants were Attorney General of Guam Elizabeth Barrett-Anderson, Deputy Attorney General Kenneth Orcutt, and Special Assistant Attorney General Julian Aguon. After careful consideration and after having reviewed the parties' briefs, relevant cases and statutes, and having heard argument

1 from counsel on the matter, the court hereby **GRANTS** the Plaintiff's Motion for Summary
2 Judgment and finds **MOOT** Defendants' Motion for Summary Judgment for the reasons stated
3 herein.

4 **I. CASE OVERVIEW¹**

5 This is a civil rights action which deals with the topic of self-determination of the
6 political status of the island and who should have the right to vote on a referendum concerning
7 such. The Plaintiff claims that he is prohibited from registering to vote on the referendum, which
8 is a violation of the Voting Rights Act, the Organic Act of Guam, and his Fifth, Fourteenth and
9 Fifteenth Amendment rights.

10 **a. Factual Background²**

11 On November 22, 2011, Plaintiff filed his complaint for declaratory and injunctive relief.
12 *See* Compl., ECF No. 1. In the complaint, he alleges discrimination in the voting process by
13 Guam and the Defendants. *Id.* Plaintiff alleges that under Guam law, a Political Status Plebiscite
14 ("Plebiscite") is to be held concerning Guam's future relationship with the United States. *Id.* at ¶
15 8. Plaintiff, a white, non-Chamorro, male and resident of Guam, states that he applied to vote for
16 the Plebiscite but was not permitted to do so because he did not meet the definition of "Native
17 Inhabitant of Guam." *Id.* at ¶¶ 20 and 21. "Native Inhabitants of Guam" is defined as "those
18 persons who became U.S. Citizens by virtue of the authority and enactment of the 1950 Guam
19 Organic Act and descendants of those persons." 3 Guam Code Ann. § 21001(e).

20 The Plebiscite would ask native inhabitants which of the three political status options
21 they preferred. The three choices are Independence, Free Association with the United States, and

22 _____
23 ¹ The page citations throughout this Decision and Order are based on the page numbering provided by the CM/ECF
system.

24 ² A portion of the factual background is based on the same information that was contained in a prior decision of the
court. *See* Report and Recommendation, ECF No. 44.

1 Statehood. *See* Compl., ECF No. 1, at ¶ 8.

2 Because Plaintiff was denied the right to register for the Plebiscite, he filed the instant
3 complaint, stating three causes of action. In his first cause of action, he alleges that by limiting
4 the right to vote in the Plebiscite to only Native Inhabitants of Guam, the purpose and effect of
5 the act was to exclude him and most non-Chamorros from voting therein, thereby resulting in a
6 denial or abridgment of the rights of citizens of the United States to vote on account of race,
7 color, or national origin, a violation of Section 2 of the Voting Rights Act of 1965.

8 In his second cause of action, Plaintiff alleges that Defendants are preventing him from
9 registering to vote in the Plebiscite because he is not a Native Inhabitant of Guam. Thus,
10 Defendants are engaged in discrimination on the basis of race, color, and/or national origin in
11 violation of various laws of the United States.

12 Lastly, the Plaintiff's third cause of action alleges that he is being discriminated in
13 relation to his fundamental right to vote in the Plebiscite in violation of the Organic Act of
14 Guam, the U.S. Constitution and other laws of the United States for the reason that he is not a
15 Native Inhabitant of Guam.

16 In his Prayer for Relief, Plaintiff seeks a judgment: enjoining Defendants from preventing
17 Plaintiff and those similarly situated from registering for and voting in the Plebiscite; enjoining
18 Defendants from using the Guam Decolonization Registry in determining who is eligible to vote
19 in the Plebiscite; enjoining Defendant Leonardo Rapadas from enforcement of the criminal law
20 provisions of the Act that make it a crime to register or allow a person to vote in the Plebiscite
21 who is not a Native Inhabitant of Guam³; and a declaration that Defendants' conduct has been

22 _____
23 ³ In the appellate decision issued on May 8, 2015, the Ninth Circuit found that because Plaintiff did not argue on
24 appeal that this court erred by dismissing his claim against Mr. Leonardo Rapadas, the Attorney General of Guam,
to enforce a provision of Guam's criminal law that makes it a crime for a person who knows he is not a Native
Inhabitant to register for the Plebiscite, any claim of error in that regard was waived. *See Davis v. Guam*, 785 F.3d
1311, 1316 (9th Cir. 2015).

1 and would be, if continued, a violation of law.

2 **b. Relevant Procedural Background**

3 On November 22, 2011, Plaintiff filed his complaint herein. *See* Compl., ECF No. 1. On
4 December 2, 2011, the then-Attorney General of Guam, Leonardo M. Rapadas, a named
5 Defendant, on behalf of himself and all named defendants, moved to dismiss the complaint on
6 the ground that it failed to present a case or controversy. *See* Defs.' Mot., ECF No. 17. On
7 January 9, 2013, the court granted Defendants' motion to dismiss finding that the Plaintiff lacked
8 standing and the case was not ripe for adjudication. *See* Order, ECF No. 78. The Plaintiff
9 appealed.

10 On May 8, 2015, the Ninth Circuit issued its decision, finding that the Plaintiff has
11 standing to pursue his challenge to Guam's alleged race-based registration classification and that
12 the claim was ripe because the Plaintiff alleged he was currently subjected to unlawful unequal
13 treatment in the ongoing registration process. *See Davis v. Guam*, 785 F.3d 1311 (9th Cir. 2015).

14 On October 30, 2015, both parties filed their respective motions for summary judgment.
15 *See* Pl.'s Mot., ECF Nos. 103; and Defs.' Mot., ECF No. 106. The court heard the matter on
16 September 1, 2016, and thereafter took it under advisement.

17 **c. Instant Motions Before the Court**

18 **i. Plaintiff's Motion for Summary Judgment**

19 The Plaintiff moves the court for a judgment pursuant to FED. R. CIV. P. 56(a), wherein
20 he seeks the enjoinder of the Plebiscite, and (ii) a declaration from the court that the Plebiscite
21 violates the Fourteenth and Fifteenth Amendments of the United States Constitution, the Voting
22 Rights Act, and the Organic Act. *See* Pl.'s Mot., ECF No. 103.

23 **ii. Defendants' Motion for Summary Judgment**

24 Defendants likewise move the court for a judgment pursuant to FED. R. CIV. P. 56,

1 wherein they seek judgment granted in their favor because Plaintiff cannot make a prima facie
2 case of impermissible race-based discrimination under the United States Constitution or any
3 federal statutes. *See* Defs.’ Mot., ECF No. 106.

4 II. JURISDICTION AND VENUE

5 The court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 1331 and 1343, for
6 Plaintiff’s claims under the Voting Rights Act, the Organic Act of Guam, and his Constitutional
7 rights under the Fifth, Fourteenth, and Fifteenth Amendments. *See also* 48 U.S.C. § 1424.

8 Venue is proper in this judicial district, the District Court of Guam, because Defendants
9 are Guam, the Government of Guam and its officials, and all of the events giving rise to
10 Plaintiff’s claims occurred here. *See* 28 U.S.C. § 1391.

11 III. SUMMARY JUDGMENT STANDARD

12 “The court shall grant summary judgment if the movant shows that there is no genuine
13 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R.
14 CIV. P. 56(a). To demonstrate that a material fact cannot be genuinely disputed, the movant may:

- 15 (A) cit[e] to particular parts of materials in the record, including depositions,
16 documents, electronically stored information, affidavits or declarations,
stipulations (including those made for purposes of the motion only), admissions,
interrogatory answers, or other materials; or
- 17 (B) show[] that the materials cited do not establish the absence or presence of a
18 genuine dispute, or that an adverse party cannot produce admissible evidence to
support the fact.

19 FED. R. CIV. P. 56(c)(1).

20 A fact is material if it might affect the outcome of the suit under the governing
21 substantive law. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A factual
22 dispute is “genuine” where “the evidence is such that a reasonable jury could return a verdict for
23 the nonmoving party.” *Id.* Thus, the evidence presented in opposition to summary judgment must
24 be “enough ‘to require a jury or judge to resolve the parties’ differing versions of the truth at

1 trial.” *Aydin Corp. v. Loral Corp.*, 718 F.2d 897, 902 (9th Cir. 1983) (quoting *First Nat’l Bank*
2 *v. Cities Servs. Co.*, 391 U.S. 253, 288-89 (1968)).

3 A shifting burden of proof governs motions for summary judgment under Rule 56. *In re*
4 *Oracle Corp. Securities Litig.*, 627 F.3d 376, 387 (9th Cir. 2010). The party seeking summary
5 judgment bears the initial burden of proving an absence of a genuine issue of material fact. *Id.*
6 (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). Where, as here, the moving party
7 will have the burden of proof at trial, “the movant must affirmatively demonstrate that no
8 reasonable trier of fact could find other than for the moving party.” *Soremekun v. Thrifty Payless,*
9 *Inc.*, 509 F.3d 978, 984 (9th Cir. 2007).

10 If the moving party meets that burden, the burden then shifts to the nonmoving party to
11 set forth “specific facts showing that there is a genuine issue for trial.” *Liberty Lobby*, 477 U.S.
12 at 250. “The mere existence of a scintilla of evidence . . . will be insufficient” and the nonmoving
13 party “must do more than simply show that there is some metaphysical doubt as to the material
14 facts.” *Id.* at 252; *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986).
15 Viewing the evidence in the light most favorable to the non-moving party, “[w]here the record
16 taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is
17 no ‘genuine issue for trial.’” *Matsushita*, 475 U.S. at 587.

18 IV. DISCUSSION

19 a. **Guam law on voter qualification for the Plebiscite violates the Fifteenth** 20 **Amendment’s prohibition of racial discrimination in voting.**

21 The Fifteenth Amendment provides that “[t]he right of citizens of the United States to
22 vote shall not be denied or abridged by the United States or by any State on account of race,
23 color, or previous condition of servitude.” U.S. CONST. AMEND. XV. The Fifteenth Amendment
24 applies to Guam. *See* 48 U.S.C. §1421b(u) (“The following provisions of and amendments to the
Constitution of the United States are hereby extended to Guam . . . and shall have the same force

1 and effect there as in the United States or in any State of the United States: . . . the fifteenth []
2 amendment[.]”).

3 Plaintiff asserts that Defendants are in violation of the Fifteenth Amendment because
4 Plaintiff was denied the right to register to vote in the Plebiscite on account of his race. Pl.’s
5 Mem. in Supp. of Pl.’s Mot. (“Pl.’s Mem.”), ECF No. 104, at 20. Plaintiff is Caucasian with no
6 Chamorro ancestry. Pl.’s Ex. A, ECF No. 105-1, at 2. He attempted to register to vote in the
7 Plebiscite, but the Guam Election Commission did not accept his application to register and
8 instead marked the form as “void.” Pl.’s Ex. C, ECF 105-3, at 1.

9 i. **The Fifteenth Amendment prohibits use of ancestry as proxy for race.**

10 “Fundamental in purpose and effect and self-executing in operation, the [Fifteenth]
11 Amendment prohibits all provisions denying or abridging the voting franchise of any citizen or
12 class of citizens on the basis of race.” *Rice v. Cayetano*, 528 U.S. 495, 512 (2000). While there
13 were attempts to manipulate the system to exclude others from voting since the passage of the
14 Amendment, the Supreme Court noted that “[t]he Fifteenth Amendment was quite sufficient to
15 invalidate a scheme which did not mention race but instead used ancestry in an attempt to
16 confine and restrict the voting franchise.” *Id.* at 113. “[R]acial discrimination is that which
17 singles out identifiable classes of persons . . . solely because of their ancestry or ethnic
18 characteristics.” *Id.* at 515, citing *Saint Francis College v. Al-Khazraji*, 481 U.S. 604, 613 (1987)
19 (internal quotation marks omitted).

20 Recognizing that ancestry can be proxy for race, the court in *Rice* found that the voting
21 qualification requirements for the Office of Hawaiian Affairs (“OHA”) trustees, which are
22 chosen in a statewide election, uses ancestry as proxy for race. 528 U.S. at 514. In that case, the
23 Hawaiian Constitution limits the right to vote for the OHA trustees to “Hawaiians,” which
24 consists of two subclasses of the Hawaiian citizenry. *Id.* at 498-99. The smaller class, known as

1 “native Hawaiians,” is made up of descendants of not less than one-half part of the races
2 inhabiting the Hawaiian Islands prior to 1778.⁴ *Id.* at 499. The larger class, known as
3 “Hawaiians,” is made up of descendants of people inhabiting the Hawaiian Islands in 1778.⁵ *Id.*
4 Petitioner Rice is a citizen of Hawaii, but he does not have the requisite ancestry to qualify to
5 vote in the OHA trustee election. *Id.* His application to register to vote for OHA trustees was
6 denied. *Id.* at 510.

7 The state of Hawaii maintains that the statute “is not a racial category at all but instead a
8 classification limited to those whose ancestors were in Hawaii at a particular time, regardless of
9 their race.” *Id.* at 514. The state puts forth the following arguments: some inhabitants of Hawaii
10 as of 1778 may have migrated from the Marquesas Islands, the Pacific Northwest, and Tahiti;
11 “the restriction in its operation excludes a person whose traceable ancestors were exclusively
12 Polynesian if none of those ancestors resided in Hawaii in 1778;” and, “the vote would be
13 granted to a person who could trace, say, one sixty-fourth of his or her ancestry to a Hawaiian
14 inhabitant on the pivotal date.” *Id.*

15 The Supreme Court rejected the state’s argument that the classification is not racial in
16 nature, holding that ancestry can be proxy for race. *Id.* In finding that the state “has used ancestry
17 as a racial definition and for a racial purpose”, the court noted that “[t]he very object of the
18 statutory definition in question and of its earlier congressional counterpart in the Hawaiian
19
20

21 ⁴ The statutory definition of “native Hawaiian” is as follows: “‘Native Hawaiian’ means any descendant of not less
22 than one-half part of the races inhabiting the Hawaiian Islands previous to 1778, as defined by the Hawaiian Homes
23 Commission Act . . . provided that the term identically refers to the descendants of such blood quantum of such
24 aboriginal peoples which exercised sovereignty and subsisted in the Hawaiian Islands in 1778 and which peoples
thereafter continued to reside in Hawaii.”

⁵ The statutory definition of “Hawaiian” is as follows: “‘Hawaiian’ means any descendant of the aboriginal peoples
inhabiting the Hawaiian Islands which exercised sovereignty and subsisted in the Hawaiian Islands in 1778, and
which peoples thereafter have continued to reside in Hawaii.”

1 Homes Commission Act⁶ is to treat the early Hawaiians as a distinct people[.]” *Id.* at 514-15.
2 Looking at the legislative history, the court also noted that the definition of “Hawaiian” was
3 changed to substitute “peoples” for “races” but such change—based on congressional committee
4 records—was “merely technical” and the meaning did not change: “peoples” still meant “races.”
5 *Id.* at 516.

6 “Distinctions between citizens solely because of their ancestry are by their very nature
7 odious to a free people whose institutions are founded upon the doctrine of equality.”
8 *Hirabayashi v. United States*, 320 U.S. 81, 100 (1943). Further, “it demeans the dignity and
9 worth of a person to be judged by ancestry instead of by his or her own merit and essential
10 qualities.” *Rice*, 528 U.S. at 517.

11 ii. **“Native Inhabitants of Guam” is a race-based classification.**

12 The statute in question is the definition of “Native Inhabitants of Guam,” as provided in
13 Public Law No. 25-106 and codified in 3 Guam Code Ann. § 21001(e), since Guam law requires
14 that only “Native Inhabitants of Guam” be allowed to vote in the Plebiscite.⁷ *See* 1 Guam Code
15

16 ⁶ The Hawaiian Homes Commission Act set aside approximately 200,000 acres of land and created a program of
loans and long-term leases for the benefit of native Hawaiians. *Rice*, 528 U.S. at 507.

17 ⁷ Section 2110 of Title 1 of the Guam Code Annotated provides in its entirety the following:

18 **Plebiscite Date and Voting Ballot.**

- 19 (a) The Guam Election Commission shall conduct a “Political Status Plebiscite”, at which the following
question, which shall be printed in both English and *Chamorro*, shall be asked of the eligible voters:

20 In recognition of your right to self-determination, which of the following political status options
do you favor? (Mark ONLY ONE):

- 21 1. Independence ()
22 2. Free Association with the United States of America ()
3. Statehood ().

23 Persons eligible to vote shall include those persons designated as Native Inhabitants of Guam, as defined
within this Chapter of the Guam Code Annotated, who are eighteen (18) years of age or older on the date of
24 the “Political Status Plebiscite” and are registered voters on Guam.

The “Political Status Plebiscite” mandated in Subsection (a) of this Section shall be held on a date of the

1 Ann. § 2110. "Native Inhabitants of Guam" is defined as "persons who became U.S. Citizens by
2 virtue of the authority and enactment of the 1950 Guam Organic Act and descendants of those
3 persons." 3 Guam Code Ann. § 21001(e). "Descendant" is defined as "a person who has
4 proceeded by birth . . . from any 'Native Inhabitant of Guam' . . . and who is considered placed
5 in a line of succession from such ancestor where such succession is by virtue of *blood relations*."
6 3 Guam Code Ann. §21001(c) (emphasis added).

7 In other words, the voter qualification for the Plebiscite is set up to limit it to only two
8 groups: (1) those individuals who obtained their U.S. citizenship by virtue of the Organic Act in
9 1950, and (2) their descendants. *Id.* Similar to *Rice*, the voter qualification here is a proxy for
10 race because it excludes nearly all persons whose ancestors are not of a particular race. *See* 528
11 U.S. at 514-16. As Plaintiff correctly points out, even an adopted child of a descendant cannot
12 vote in the Plebiscite. *See* Pl.'s Reply, ECF No. 115, at 8-9. Bloodline/ancestry is required.

13 Defendants argue that the statute is not race-based but rather based on "the 1950 date
14 [which] refers to the passage of a specific law that changed the citizenship status of a defined
15 class of people."⁸ Defs.' Opp'n., ECF No. 112, at 11. Defendants support their non-racial
16 argument by pointing to the 1950 census for Guam, which confirms that there are multiple racial
17 or ethnic groups that became U.S. citizens by virtue of the Organic Act. *Id.* at 11-12, 18. It was
18 not limited to one racial group such as Chamorros. *Id.* The court finds this argument to be
19 unpersuasive. *See Davis v. Commonwealth Election Comm'n.*, 844 F.3d 1087, 1093 (9th Cir.

20 General Election at which seventy percent (70%) of eligible voters, pursuant to this Chapter, have been
21 registered as determined by the Guam Election Commission.

22 1 Guam Code. Ann. § 2110.

23 ⁸ Defendants also argue that the definition of "Native Inhabitants of Guam" does not "provide that all Chamorro
24 people are eligible to vote" in the Plebiscite and therefore, the statute is not racial. Defs.' Opp'n., ECF No. 112, at 6.
The U.S. Supreme Court in *Rice* has already addressed this issue, holding that "[s]imply because a class defined by
ancestry does not include all members of the race does not suffice to make the classification race neutral." *Rice*, 528
U.S. at 516-17.

1 2016) (“While there is historical evidence that some persons who were not of Chamorro or
2 Carolinian ancestry lived on the islands in 1950 [and therefore qualify as a ‘full blooded’
3 Northern Marianas descent], *Rice* forecloses this argument. The Fifteenth Amendment will not
4 tolerate a voter restriction which singles out identifiable classes of persons . . . solely because of
5 their ancestry or ethnic characteristics.” (internal quotation marks and citations omitted)).

6 The 1950 census data shows that the total population in Guam was 59,498. *See* Pl.’s Ex.
7 D1, ECF No. 105-5, at 4. Out of that number were 26,142 non-U.S. citizens.⁹ *Id.* The breakdown
8 of these non-U.S. citizens is as follows: 24 Chinese; 36 Whites; 127 Filipinos; 25,788
9 Chamorros; and 167 “Other”. *Id.* That is a total of 354 non-Chamorros living on Guam in 1950, a
10 diminutive number (approximately 1.4 percent) compared to the 25,788 Chamorros on Guam
11 during that same time period.

12 In *Rice*, the state of Hawaii advanced a similar argument as the Defendants here, noting
13 that the individuals living in Hawaii in 1778 are not exclusively from one particular race but
14 rather, some came from the Marquesas Islands, the Pacific Northwest, and Tahiti. 528 U.S. at
15 514. The Supreme Court rejected this line of argument. *Id.* It noted that the inhabitants shared
16 common physical characteristics and a common culture, making them distinct people, and the
17 law reflects “the State’s effort to preserve that commonality of people to the present day.” *Id.* at
18 514-15. The court further went on to review the history of the statute in question. *Id.* at 515.

19 In this case, the current Plebiscite law traces its beginnings to Public Law No. 23-130,
20 which became law on December 30, 1996. *See* Pub. L. No. 23-130; Pl.’s Ex. F, ECF No. 105-7.
21 Therein, the Guam Legislature established a Chamorro Registry for the purpose of establishing

22
23 ⁹ This number represents the total population of non-U.S. citizens residing on Guam in 1950, who presumably,
24 became U.S. citizens by virtue of the Organic Act. Accordingly, this is the number that represents those who are
considered “Native Inhabitants” pursuant to 3 Guam Code Ann. § 21001(e). Those living on Guam who were
already U.S. citizens prior to the enactment of the Organic Act do not fall within the definition of “Native
Inhabitants.” *See id.*

1 an index of names by the Guam Election Commission for registering Chamorros and recording
2 their names. *Id.* The Registry was to serve as a tool to educate Chamorros about their status as an
3 indigenous people and their inalienable right to self-determination. *Id.* at § 1.

4 Shortly after the passage of the above-referenced law, the Guam Legislature passed
5 Public Law No. 23-147, and it became law on January 23, 1997. *See* Pub. L. No. 23-147; Pl.’s
6 Ex. G, ECF No. 105-8. This new law created the Commission on Decolonization for the
7 Implementation and Exercise of Chamorro Self-Determination (“Commission on
8 Decolonization”). *See* § 4, Pub. L. No. 23-147. The purpose of the Commission was to ascertain
9 the desires of the “Chamorro people of Guam” as it pertained to their future political relationship
10 with the United States. *Id.* at § 5. The law required the Guam Election Commission to conduct a
11 Political Status Plebiscite at the next island-wide Primary Election,¹⁰ during which the
12 “Chamorro people entitled to vote” would be asked to choose among three political status
13 options: Independence, Free Association, and Statehood. *Id.* at § 10. The results of the Plebiscite
14 were to be transmitted to the President and Congress of the United States and the Secretary
15 General of the United Nations. *Id.* at § 5.

16 In that same public law, “Chamorro people of Guam” was defined as “[a]ll inhabitants of
17 Guam in 1898 and their descendants who have taken no affirmative steps to preserve or acquire
18 foreign nationality.” *Id.* at § 2(b). Thereafter, the Guam Legislature passed Public Law No. 25-
19 106, which became law on March 24, 2000. *See* Pub. L. No. 25-106; Pl.’s Ex. H, ECF No. 105-9.
20 That law changed the persons entitled to vote from “Chamorro people of Guam” to “Native
21 Inhabitants of Guam”. *See* § 11, Pub. L. 25-106. The definition of “Native Inhabitants of Guam”
22 in Public Law No. 25-106 (codified as 3 Guam Code Ann. § 21001(e)), is nearly identical to the

23 _____
24 ¹⁰ The law was later amended, and it required the Plebiscite to be held on a general election at which seventy percent
(70%) of eligible voters have been registered as determined by the Guam Election Commission. *See* § 23, Pub. L.
No. 27-106.

1 definition of "Native Chamorro"¹¹ as defined in the Chamorro Land Trust Commission Act.¹²
2 See 21 Guam Code Ann. § 75101(d).

3 Public Law No. 25-106 also created a Guam Decolonization Registry, which is a registry
4 for qualified voters of the Plebiscite.¹³ See Pub. L. No. 25-106. The Guam Legislature also
5 provided for the waiver of an affidavit (required when you register to vote for the Plebiscite) for
6 individuals who have received a Chamorro Land Trust Commission ("CLTC") lease or have
7 been preapproved to receive one (pursuant to 21 Guam Code Ann. § 75107, to be eligible for a
8 CLTC lease, one must be a "Native Chamorro"). See § 3, Pub. L. No. 30-102, codified as 3
9 Guam Code Ann. §21002.1. That same law also automatically registers those individuals into the
10 registration roll of the Guam Decolonization Registry. *Id.*

11 The specific sequence of events shows that the Guam Legislature passed into law Public
12 Law No. 25-106 soon after the U.S. Supreme Court issued its decision in *Rice*, wherein the court
13 invalidated the use of ancestry as a voting qualification requirement, because it was determined
14 to be a proxy for race. See 528 U.S. 495 (2000). The *Rice* decision was issued on February 23,
15 2000, and Public Law No. 25-106 was passed by the legislature on March 9, 2000, and enacted
16 into law on March 24, 2000. See *id.* and Pl.'s Ex. H, ECF No. 105-9.

17 The court finds that similar to *Rice*, the use of "Native Inhabitants of Guam" as a
18 requirement to register and vote in the Plebiscite is race-based and that the Guam Legislature has
19 used ancestry as a racial definition and for a racial purpose. It is clear to the court that the Guam
20

21 ¹¹ "Native Inhabitants of Guam" is defined as "those persons who became U.S. Citizens by virtue of the authority
22 and enactment of the 1950 Guam Organic Act and descendants of those persons", whereas "Native Chamorro" is
23 defined as "any person who became a U.S. citizen by virtue of the authority and enactment of the Guam Organic Act
24 or descendants of such person." See 3 Guam Code Ann. § 21001(e) and 21 Guam Code Ann. §75101.

¹² The Chamorro Land Trust Commission was created for the administration of the returned land for native
Chamorros. See Chapter 75 of Title 21 of the Guam Code Annotated.

¹³ It was a registry separate and apart from the Chamorro Registry that was created by Public Law No. 23-130.

1 Legislature attempted to manipulate the system to exclude others from voting by immediately
2 deleting the term “Chamorro people” from the law that mandated the Plebiscite and replacing it
3 with “Native Inhabitants”—a neutral term on its face, without any reference to a specific race,
4 when the *Rice* decision was issued. Yet, the Guam Legislature used the same definition of
5 “Native Chamorro”, as contained in the Chamorro Land Trust Commission Act, for the artfully
6 and newly created term “Native Inhabitants” in the Plebiscite statute. Further, a “Native
7 Chamorro” who has received or has been preapproved for a CLTC lease is automatically
8 registered into the Plebiscite registration roll (the Guam Decolonization Registry). Gleaning from
9 all of these—similar to *Rice*, the very object of the statutory definition in question here is to treat
10 the Chamorro people as “a distinct people”. *See Rice*, 528 U.S. at 515. It is clear to the court that
11 the Guam Legislature has used ancestry as a proxy for race.

12 Defendants attempt to distinguish *Rice* from the present case by arguing that the statute
13 being challenged has no discriminatory purpose.¹⁴ *See* Defs.’ Opp’n., ECF No. 112, at 9, 16.
14 Discriminatory purpose is required under the Fifteenth Amendment when a restriction is race-
15 neutral on its face. *Davis*, 844 F.3d at 1094 n.5, citing *City of Mobile, Ala. v. Bolden*, 446 U.S.
16 55, 62 (1980). Defendants support their argument by pointing to the “Legislative Findings and
17 Intent” contained in Section 1 of Public Law No. 25-106. It states in relevant part the following:

18 . . . *I Liheslaturan Guahan’s* [Guam Legislature’s] intent that the
19 qualifications for voting in the political status plebiscite shall *not* be race-
20 based, but based on a clearly defined political class of people resulting
from historical acts of political entities in relation to the people of Guam.

21 P.L. 25-106, § 1. *See* Defs.’ Opp’n., ECF No. 112, at 7. The Guam Legislature further
22 emphasized that “[t]he intent of [the legislation] shall *not* be construed nor implemented

23 _____
24 ¹⁴ Defendants also seem to infer that “animus” is required in order for the court to find a violation of the Fifteenth Amendment. *See generally* Defs.’ Opp’n., ECF No. 112 (Defendants used the term repeatedly throughout their brief.). However, Defendants have not provided any legal authority to support this inference.

1 by the government officials effectuating its provisions to be race based, but founded upon
2 the classification of persons as defined by the U.S. Congress in the 1950 Organic Act of
3 Guam.” 3 Guam Code Ann. § 21000. It further noted that the Guam Decolonization
4 Registry (registry for the Plebiscite) is a separate registry from the Chamorro Registry
5 and that it is not “one based on race.” *Id.*

6 Defendants contend that “[i]t is firmly established that the carefully chosen words of a
7 statute prevail over the isolated statements of individual lawmakers,” providing a string citation
8 to cases regarding review of legislative history to determine legislative intent.¹⁵ *See* Defs.’
9 Opp’n., ECF No. 112, at 7-8. The isolated statements being referred to were made by then-
10 senator Tina Muna Barnes. *Id.* at 6-7. In Plaintiff’s Motion, he discussed Ms. Muna Barnes’
11 introduction of Bill No. 151-31, which would have allowed all registered voters to vote in the
12 Plebiscite. *See* Pl.’s Mem., ECF No. 104, at 12.

13 The following conversation transpired during the Roundtable Meeting on the Political
14 Status Bills (Bill Nos. 151-31, 154-31, and 168-31) on May 20, 2011:

15 Sen. Tom Ada: “Chairman, may I speak to best clarify the issue. This
16 (indicating Bill No. 151) does say that all registered voters in Guam can
17 vote on this. To include, the outside people, even if they’re not
18 Chamorro.”

18 Sen. Muna Barnes: “I apologize that wasn’t the intent. This straw poll
19 would not be the determinant factor in what the people want. I support a
20 Chamorro-only vote, and it’s up to the people, the Chamorros of Guam . . .
21 [to] determine what their determination should be. Again, I apologize, that
22 wasn’t the intent.”

21 . . .

22 ¹⁵ For example, in *Garcia v United States*, the court found that “[i]n surveying legislative history we have repeatedly
23 stated that the authoritative source for finding the Legislature’s intent lies in the Committee Reports on the bill,
24 which represent the considered and collective understanding of those Congressmen involved in drafting and
studying proposed legislation . . . We have eschewed reliance on the passing comments of one Member . . . and
casual statements from the floor debates . . . we stated that Committee Reports are more authoritative than comments
on the floor[.]” 469 U.S. 70, 76 (1984). This is in line with one of the factors articulated in *Arlington Heights* in
determining intent; that is, the court reviews legislative history, including the minutes and committee reports of the
legislation, as discussed *infra*.

1 Sen. Respicio: “. . . You just heard Sen. Barnes clarify and this bill would
2 have to be amended because it says by all Guam voters. She just clarified
3 that her intent was only to make those eligible to vote on the plebiscite
4 vote, so bill 151 is kind of closer now to bill 154 that Sen. Guthertz is
5 proposing but only 154 kind of talks about the methodology to which the
6 vote shall take place so you can have some comfort knowing that the
7 author is more in agreement with most of us on this issue . . .”

8 . . .

9 Sen. Respicio: “But earlier you said that it wasn’t your intent to make all
10 of Guam voters vote and so that you agreed with the position that only
11 people who should be eligible to vote . . .”

12 Sen. Muna Barnes: “Yes, and I said that the drive for the Chamorro only
13 vote should exist, I’ve said that over and over and over . . .”

14 Sen. Respicio: “But first would you want everybody who is a Guam voter
15 to vote on their preferred political status and it’s really it’s not a Chamorro
16 only vote because it’s date-based rather than race-based so people ask that
17 we not call it Chamorro only vote because that’s what’s been supported . .
18 .”

19 Sen. Muna Barnes: “As defined by the laws and provisions that are in
20 place today, Mr. Chairman.”

21 Sen. Respicio: “But are you suggesting then, we amend this ‘by all of
22 Guam voters’ and limit it to those eligible to vote in the plebiscite which is
23 what the original law is.”

24 Sen. Muna Barnes: “Yes.”

. . .

Sen. Respicio: “I think what she’s saying is that, maybe I’m
misunderstanding, but only those who are eligible to vote on the plebiscite
should vote for what their preferred status is. Only those who obtained
their citizenship through the Organic Act should be the one to vote on the
plebiscite, that’s most of our positions, and the Senator just clarified that it
wasn’t her intent to make everybody vote, although the bill reflected that,
so this bill will have to be amended, and so the purpose of this roundtable .
. . . , is that we have three bills with all completing outcomes, and rather
than having a public hearing and looking like we were all over the place,
we wanted to have a roundtable to kind of focus on what kind of direction
we wanted to have.”

1 Portion of Transcript during Roundtable Meeting on the Political Status Bills (May 20, 2011).
2 See Pl.'s Ex. I, ECF No. 105-10, at 75-76, 84. The legislative history of Bill No. 151-31 is
3 contained within the legislative committee report of Bill No. 154-31, which became Public Law
4 No. 31-92. Plaintiff notes that Bill No. 151-31 was subsequently withdrawn. Pl.'s Mem., ECF
5 No. 104, at 12.

6 Defendants argue that Ms. Muna Barnes' isolated statements should carry very little
7 weight, if any, in determining whether there was discriminatory purpose in the Plebiscite. See
8 Defs.' Opp'n., ECF No. 112, at 6-7. Defendants' reliance on the cases they cited to on this point
9 is misplaced. See Defs.' Opp'n., ECF No. 112, at 7-8. For example, in *Florida v. United States*,
10 the district court noted that the legislator's sole statement "is the only statement to which the
11 defendants point as evidencing a discriminatory purpose on the part of the Florida legislature."
12 885 F.Supp.2d 299, 354 (D.D.C. Aug. 16, 2012). That is not the case here. Plaintiff does not rely
13 solely on one legislator's statement to demonstrate discriminatory purpose. He relies on the
14 legislative history and the surrounding circumstances of the enactment of the Plebiscite statute.

15 The Supreme Court in *Arlington Heights v. Metropolitan Housing Development Corp.*
16 articulated the following method in determining discriminatory purpose:

17 Determining whether invidious discriminatory purpose was a motivating
18 factor demands a sensitive inquiry into such circumstantial and direct
19 evidence of intent as may be available. . . . The *historical background* of
20 the decision is one evidentiary source, particularly if it reveals a series of
21 official actions taken for invidious purposes. . . . The *specific sequence*
22 *of events leading up the challenged decision* also may shed some light on
the decisionmaker's purposes. Departures from the normal procedural
sequence also might afford evidence that improper purposes are playing a
role. . . . The *legislative or administrative history* may be highly
relevant, *especially where there are contemporary statements by members*
of the decisionmaking body, minutes of its meetings, or reports.

23 429 U.S. 252, 265-68 (1977) (emphasis added).

24 The court recognizes that the Guam Legislature articulated its intent in Public Law 25-

1 106, that the Plebiscite not be based on race. However, the court cannot ignore the specific
2 sequence of events leading up to the passage of that particular legislation. As discussed *supra*,
3 the legislation was passed into law immediately after the *Rice* decision. Further, the definition of
4 “Native Inhabitants of Guam” is nearly identical to the definition of “Native Chamorro”—a
5 facially race-based term—used in the Chamorro Land Trust Commission Act. The law also
6 provides that a “Native Chamorro” who has received or is preapproved for a CLTC lease be
7 automatically registered into the Guam Decolonization Registry, a registry maintained for the
8 purposes of the Plebiscite.

9 Further, aside from Ms. Muna Barnes’ reference to the Plebiscite as a “Chamorro-only”
10 vote during the roundtable meeting, the legislative committee report reveals that there was a
11 common theme from the individuals who spoke at the meeting—that being that the Plebiscite is a
12 Chamorro-only vote and non-Chamorros should not be allowed to have a say in the Chamorro
13 self-determination process. *See* Legislative Committee Report on Bill No. 154-31 (COR) As
14 Substituted, Pl.’s Ex. I, ECF No. 105-10, at 73-100. Although the committee report that
15 contained this information was for Public Law No. 31-92 and not the committee report for Public
16 Law No. 25-106, the court cannot ignore the historical background and legislative history of the
17 Plebiscite as a whole. Public Law No. 31-92 is relevant to the Commission on Decolonization
18 legislation, having provided for the registration method and educational campaign programs for
19 the Plebiscite. *See* Pub. L. No. 31-92; Pl.’s Ex. I, ECF No. 105-10. In fact, the legislative body as
20 a whole referred to the self-determination as “Chamorro” self-determination, when it required
21 that the registration method and educational campaign programs for the Plebiscite were to be
22 developed in consultation with the “Commission on Decolonization for the Implementation and
23 Exercise of *Chamorro* Self Determination.” *See id.*, §§ 1-3.

24 Defendants also argue that the discriminatory purpose must be the primary or dominant

1 factor in creating the legislation, citing to *Bush v. Vera*, 517 U.S. 952 (1996); and *Miller v.*
2 *Johnson*, 515 U.S. 900 (1995). See Defs.' Opp'n., ECF No. 112, at 11. These cases are
3 inapposite. Both *Vera* and *Miller* deal with the constitutionality of redistricting legislations. The
4 Supreme Court explicitly recognized the complexity of electoral districting and thus placed a
5 burden on the plaintiff to show that "race was the predominant factor motivating the legislature's
6 decision to place a significant number of voters within or without a particular district." *Miller*,
7 515 U.S. at 913-16.

8 In this case, "[r]acial discrimination need only be one purpose, and not even a primary
9 purpose, of an official act in order for a violation of the Fourteenth and the Fifteenth
10 Amendments to occur." *Velasquez v. City of Abilene*, 725 F.2d 1017, 1022 (5th Cir. 1984) (citing
11 *Arlington Heights*, 429 U.S. at 265).

12 Based on the foregoing, the court finds that the Plebiscite law violates the Fifteenth
13 Amendment.

14 **iii. The Plebiscite is an election within the meaning of the Fifteenth**
15 **Amendment.**

16 Defendants contend that the Plebiscite is not an election within the meaning of the
17 Fifteenth Amendment because "no public official will be elected, nor will any issue of state law
18 or policy be decided." See Defs.' Opp'n., ECF No. 112, at 13-14. Defendants argue that the
19 Plebiscite's purpose is merely to ascertain the intent of the Native Inhabitants of Guam as to their
20 future political relationship with the United States. *Id.* at 14. The court finds Defendants'
21 argument to be without merit.

22 The U.S. Supreme Court has held that the Fifteenth Amendment includes "any election in
23 which *public issues are decided* or public officials selected." *Terry v. Adams*, 345 U.S. 461, 468
24 (1953) (emphasis added). In this case, ascertaining the future political relationship of Guam to
the United States is a public issue that affects not just the Native Inhabitants of Guam but rather,

1 the entire people of Guam. Every Guam resident otherwise qualified to vote can claim a
2 profound interest in the outcome of the Plebiscite. The result of the Plebiscite will be transmitted
3 to the President and Congress, as well as to the United Nations. *See* 1 Guam Code Ann. §2105. It
4 is also very likely that the government of Guam and its political leaders will use the Plebiscite
5 result as the starting point in working towards achieving the “Native Inhabitants of Guam’s”
6 desired political relationship with the United States. The Ninth Circuit recognized the important
7 implications of the Plebiscite and noted that “[i]f the plebiscite is held, this would make it more
8 likely that Guam’s relationship to the United States would be altered to conform to that preferred
9 outcome, rather than one of the other options presented in the plebiscite, or remaining a
10 territory.” *Davis v. Guam*, 785 F.3d 1311, 1315 (9th Cir. 2015).

11 Accordingly, this court finds that the Plebiscite is an election that falls within the
12 meaning of the Fifteenth Amendment.

13 **b. Guam law on voter qualification for the Plebiscite violates the Fourteenth**
14 **Amendment’s Equal Protection Clause.**

15 The Fourteenth Amendment provides that no State shall “deny to any person within its
16 jurisdiction the equal protection of the laws.” U.S. CONST. AMEND. XIV. The Equal Protection
17 Clause of the Fourteenth Amendment applies to Guam. *See* 48 U.S.C. §1421b(u) (“The
18 following provisions of and amendments to the Constitution of the United States are hereby
19 extended to Guam . . . and shall have the same force and effect there as in the United States or in
20 any State of the United States: . . . the second sentence of section 1 of the fourteenth
21 amendment[.]”).

22 “[T]he Equal Protection Clause demands that racial classifications . . . be subjected to the
23 ‘most rigid scrutiny.’” *Loving v. Virginia*, 388 U.S. 1, 11 (1967). Judicial review must begin
24 from the position that “any official action that treats a person differently on account of his race or
ethnic origin is inherently suspect.” *Fisher v. University of Texas at Austin*, 133 S.Ct. 2411, 2419

1 (2013) (citations omitted). *See also Korematsu v. United States*, 323 U.S. 214, 216 (1944).

2 The law is well established that “a citizen has a constitutionally protected right to
3 participate in elections on an equal basis with other citizens in the jurisdiction.” *Dunn v.*
4 *Blumstein*, 405 U.S. 330, 336 (1972). Any racial classification will only be allowed if the
5 government proves “that the reasons . . . are clearly identified and unquestionably legitimate.”
6 *Fisher*, 133 S.Ct. at 2419 (internal quotes and brackets omitted). In other words, racial
7 classifications must be narrowly tailored to further compelling governmental interests. *Grutter v.*
8 *Bollinger*, 123 S.Ct. 2325, 326 (2003).

9 In this case, Plaintiff’s arguments are straight forward. First, Plaintiff alleges that Guam
10 “has never come close to articulating a compelling state interest to justify its discriminatory
11 voting scheme.” Pl.’s Mem., ECF No. 104, at 22. Plaintiff contends that Guam’s only reason for
12 the Plebiscite is that “only Chamorros should have the right to vote in the Plebiscite and
13 determine Guam’s future political status.” *Id.* at 23. Second, Plaintiff alleges that the
14 classification cannot survive strict scrutiny because “its method of achieving its goal is not
15 narrowly tailored.” *Id.* at 24. Guam has not “explained why no race-neutral alternative to
16 invoking the election machinery of the state could achieve its asserted goals.” *Id.* (emphasis in
17 original omitted).

18 Defendants, on the other hand, argue that the law is facially neutral, *i.e.*, the term
19 “Chamorro” is not even used in the Plebiscite law defining Native Inhabitants of Guam. *See*
20 *Defs.’ Opp’n.*, ECF No. 112 at 5-6. Therefore, Defendants argue that Plaintiff must prove
21 discriminatory purpose in order for strict scrutiny to apply. *Id.* at 5, 12-13. Defendants urge the
22 court to apply rational basis standard instead. *Id.* at 12-13, 19, 22-23. When reviewing statutes
23 that deny some residents the right to vote, rational basis does not apply. *See Kramer v. Union*
24 *Free School Dist. No. 15*, 395 U.S. 621, 627-28 (1969). However, even assuming that

1 discriminatory purpose is necessary under the Fourteenth Amendment in cases such as this—
2 where others are excluded and denied the right to register to vote—this court has already made a
3 finding that discriminatory purpose exists under the Fifteenth Amendment and therefore finds it
4 unnecessary to further discuss it under the Fourteenth Amendment.

5 In applying strict scrutiny, the court must carefully scrutinize whether each otherwise
6 qualified voter “has, as far as is possible, an equal voice” in the Plebiscite. *Kramer*, 395 U.S. at
7 627. In *Cipriano v. City of Houma*, the Supreme Court explained that “whether the statute
8 allegedly so limiting the franchise denies equal protection of the laws to those otherwise
9 qualified voters who are excluded *depends on whether all those excluded are in fact substantially*
10 *less interested or affected than those the statute includes.*” 395 U.S. 701, 704 (1969) (internal
11 quotes omitted) (emphasis added). Put simply, the racial classification must be narrowly tailored
12 so that the exclusion of otherwise qualified voters is necessary to achieve the articulated state
13 goal. *Kramer*, 395 U.S. at 632.

14 The Plebiscite statute “contains a classification which excludes otherwise qualified voters
15 who are as substantially affected and directly interested in the matter voted upon as are those
16 who are permitted to vote.” *Cipriano*, 395 U.S. at 706. All Guam voters have a direct interest and
17 will be substantially affected by any change to the island’s political status—whether it be for
18 statehood, wherein Guam will petition the United States to be admitted into statehood; or for
19 independence, wherein Guam will sever its ties with the United States; or for free association,
20 wherein Guam will be freely associated with the United States. As discussed *supra*, “[i]f the
21 plebiscite is held, this would make it more likely that Guam’s relationship to the United States
22 would be altered to conform to that preferred outcome[.]” *Davis*, 785 F.3d at 1315. This change
23 will affect not just the “Native Inhabitants of Guam,” but every single person residing on this
24 island. There is no evidence that all those excluded (the non-Native Inhabitants of Guam) are in

1 fact substantially *less* interested or affected than those the statute includes. *See Cipriano*, 395
2 U.S. at 704. Defendants have not shown that the exclusion of others is necessary to promote a
3 compelling state interest.

4 Defendants maintain that the Plebiscite should only be for the Native Inhabitants of
5 Guam because they are colonized people who have the right to self-determination. *See Defs.’*
6 *Opp’n.*, ECF No. 112, at 17-18. Defendants quoted *Akina v. Hawaii*, 141 F.Supp.3d 1106, 1132
7 (D. Haw. 2015), wherein in discussing strict scrutiny, the district court noted that the state of
8 Hawaii has “a compelling interest in bettering the conditions of its indigenous people and, in
9 doing so, providing dignity in simply allowing a starting point for a process of self-
10 determination.” *Id.* at 18-19. *Akina* involves an election organized by a non-profit corporation,
11 whose purpose was to support efforts to achieve Native Hawaiian self-determination. 141
12 F.Supp.3d at 1111-18. Qualified voters for said election must be a “qualified Native Hawaiian.”
13 *Id.* at 1111-12. Despite the district court making a finding that strict scrutiny would be met
14 because of the Hawaiian history and Hawaii’s trust relationship with Native Hawaiians, the court
15 found that the election did not violate the Equal Protection Clause, because there was no “state
16 action.” *Id.* at 1127-28, 1131.

17 This court will not entertain the strict scrutiny analysis provided in *Akina*, because *Akina*
18 is a district court decision that has not been reviewed by an appellate court and is non-binding to
19 this court. In addition, the instant case is distinguishable in that the Plebiscite statute was created
20 by the Guam Legislature, and the election is going to be conducted by the Guam Election
21 Commission (a Government of Guam entity) in an island-wide general election. *See Pub. Law*
22 *Nos. 25-106 and 27-106.* Unlike *Akina*, the Plebiscite is a government-sanctioned election.

23 Next, Defendants maintain that limiting the Plebiscite to the “Native Inhabitants of
24 Guam” would allow for the United States to uphold its “international obligations” to the native

1 inhabitants as colonized people.¹⁶ See Defs.' Opp'n., ECF No. 112, at 17, 21. Defendants,
2 however, failed to provide this court with any legal authority—whether it be international law or
3 a binding international treaty or agreement—that allows for this court to disregard or circumvent
4 the U.S. Constitution and the laws of the United States, so that the Plebiscite can proceed despite
5 the racial classification.

6 The racial classification must fail strict scrutiny, because Defendants also have not shown
7 that the government's method of achieving its goal is narrowly tailored. There are other
8 alternatives for the government to determine the desires of the colonized people, who have the
9 right to self-determination. For example, as discussed at the hearing, the government can
10 consider less restrictive means, such as conducting a poll with the assistance of the University of
11 Guam.

12 Accordingly, based on the discussion above, the court finds that the Plebiscite law
13 violates the Equal Protection Clause of the Fourteenth Amendment.

14 **c. The *Insular Cases* Doctrine is not applicable in this case.**

15 Defendants argue that "Plaintiff's attempt to characterize his ability to vote in the
16 plebiscite as a 'fundamental' right is misguided from the start because the 'right to vote' does not
17 necessarily mean the same thing in an unincorporated territory as it does in a state, or other
18 integral part of the 'United States,'" citing to the *Insular Cases*. Defs.' Opp'n., ECF No. 112, at
19 19-23. The court finds Defendants' argument to have no merit.

20 "The *Insular Cases* held that United States Constitution applies in full to incorporated
21 territories, but that elsewhere, absent congressional extension, only fundamental constitutional

22 ¹⁶ Defendants rely on authorities such as (1) the congressional reports surrounding the enactment of Guam's Organic
23 Act, 1950 U.S.C.A.N. 2840, 2841; (2) the United Nations Resolution on "Plan of the Action for the Full
24 Implementation of the Declaration of the Granting of Independence on Colonial Countries and Peoples," G.A. Res.
35/118, U.N. GAOR, 35th Sess., Supp. No. 48, at 21, U.N. Doc. A/RES/35/118 (1980); (3) *Murray v. Schooner
Charming Betsy*, 6 U.S. (2 Cranch) 64 (1804); and (4) the Restatement (Third) of Foreign Relations Law §114
(1987). See Defs.' Opp'n., ECF No. 112, at 12-21.

1 rights apply in the territory.” *Davis*, 844 F.3d at 1095, citing *Wabot v. Villacrusis*, 958 F.2d
2 1450, 1459 (9th Cir. 1990), and *Boumediene v. Bush*, 553 U.S. 723, 756-57 (2008) (internal
3 quotation marks and brackets omitted). Congress has explicitly extended the Fifteenth
4 Amendment and the Equal Protection Clause of the Fourteenth Amendment to Guam when it
5 enacted the Organic Act of Guam. *See* 48 U.S.C. §1421b(u). Accordingly, Defendants’ use of the
6 *Insular Cases* doctrine to support their argument in this case fails.

7 V. CONCLUSION

8 The court recognizes the long history of colonization of this island and its people, and the
9 desire of those colonized to have their right to self-determination. However, the court must also
10 recognize the right of others who have made Guam their home. The U.S. Constitution does not
11 permit for the government to exclude otherwise qualified voters in participating in an election
12 where public issues are decided simply because those otherwise qualified voters do not have the
13 correct ancestry or bloodline. Having found that the classification is racial, this court finds that
14 the Plebiscite statute impermissibly imposes race-based restrictions on the voting rights of non-
15 Native Inhabitants of Guam, in violation of the Fifteenth Amendment.

16 Further, the court also finds that the Plebiscite statute violates the Fourteenth
17 Amendment.

18 Because the Fifteenth and Fourteenth Amendments are clearly violated in this case, the
19 court need not address the statutory arguments (Voting Rights Act and Organic Act of Guam)
20 that were raised by Plaintiff.

21 The court hereby **ORDERS** the following:

- 22 (1) Plaintiff’s Motion for Summary Judgment (ECF No. 103 and 104) is hereby
23 **GRANTED**.¹⁷

24 ¹⁷ All other pending motions in this case are hereby **MOOT**.

1 (2) Defendant's Motion for Summary Judgment (ECF No. 106) is hereby **DENIED** as
2 **MOOT**.¹⁸

3 (3) The court **PERMANENTLY ENJOINS** the Government of Guam and its officers,
4 employees, agents, and political subdivisions from enforcing the Political Status
5 Plebiscite (1 Guam Code Ann. § 2110) that specifically limits the voters to "Native
6 Inhabitants of Guam" as defined in 3 Guam Code Ann. §21001(e), and any laws and
7 regulations designed to enforce the Plebiscite law, insofar as such enforcement would
8 prevent or hinder Plaintiff and other qualified voters who are not Native Inhabitants of
9 Guam from registering for and voting in the Political Status Plebiscite.

10 (4) The Clerk is directed to enter judgment for Plaintiff.

11 **SO ORDERED.**



12 /s/ Frances M. Tydingco-Gatewood
13 Chief Judge
14 Dated: Mar 08, 2017

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24 ¹⁸ Because Plaintiff's Motion Summary Judgment is granted, the court need not discuss Defendants' Motion for Summary Judgment.

Decolonization

Through the Self-Determination of a People: An Overview of Guam's Status and Options

The Road Ahead

In this information package we examine Guam's current status and an overview of Guam's political development under the United States. In addition to looking back at our island's history and where we are today, we also look forward toward the self-governing status options of Independence, Free Association and Statehood. A matrix that looks at a host of issues from the perspective of the Status Quo, Independence, Free Association and Statehood is intended to serve as a guide for what we should expect as a new status is implemented.

This information package is but the first of a larger program to raise

awareness, encourage discussion and promote an informed debate about which status option is best for Guam's future. The Commission on Decolonization's study of the economic impact of the status options will be also published to give us a better understanding of how a self-governing status will affect our island's economic potential and our pocketbooks.

Looking to the road ahead, read, watch, listen. Prepare to become involved in the debate and the self-determination process that will shape the future of our island.

FAQs - Frequently Asked Questions

Why Change?

Change is occurring in Guam and the world. Our island's population is being changed by immigration. Our island's economic structure is being changed by technology. Technology makes life easier and we live more easily in the past fifty years than at any time in our island's history.

We have little or no control over some aspects of change such as world economics and technology. Other aspects of change that affect us, such as immigration, economic planning and land use, are critical to what Guam is and what Guam can be.

A self-governing status would give us the tools to manage many aspects of change that are now controlled by others. Rather than having others decide change for us, with the tools of a self-governing status we will be in a position to better manage our island and deal with the changes that are shaping today's world.

Is the Status Quo Good Enough?

Guam is one of 16 remaining Non-Self-Governing Territories in the world. At one time there were over 100 internationally recognized colonial territories. In 1946 almost half of the world's population lived in a colonial territory. Today less than 2 million people live in colonies.

The status quo has brought Guam impediments and benefits. It has also brought continuing change to our island that we have no voice in shaping. Under the status quo Guam's future will continue to be shaped not by Guam's interests but by what others want from Guam. Is it good enough for our children and grandchildren that our future is being shaped by others? Where are our voices to be heard in Guam's future?

Which Status Is Best For Guam?

A change from a non-self-governing to a self-governing status will give all those who make Guam their home a voice in the affairs of Guam. Each status option - Independence, Free Association, Statehood - would present our voices in different ways. Each option would affect our future in different ways. It is up to each of us to be informed about the options and to make up our own minds about which status is best for Guam.

What Happens After The Vote?

A self-determination vote is the beginning of the decolonization process. No matter what option is selected in the Constitution to support the status that is selected will have to be put in place to end Guam's status as a Non-Self-Governing territory.

The Commission on Decolonization of Guam is an official body that Guam has established to study and recommend to the United States the status options for Guam. The Commission is not likely to support an end to Guam's Non-Self-Governing status unless a wide cross-section of Guamanians of equal rights of all has been achieved by Guam residents.

What Is Guam's Current Legal Status?

Unincorporated Territory - A designation given by the U.S. Supreme Court in 1901 to islands taken during the Spanish-American War. Unincorporated territories are possessions of the United States but not a part of the United States. Guam was declared an unincorporated territory in the Organic Act of 1950.

Non-Self-Governing Territory - A designation given to colonial possessions which were extended the promise of full self-government in accordance with the anti-colonial framework of the United Nations' Charter. Chapter XI of the UN Charter is devoted to the rights and responsibilities related to such territories. Guam was inscribed on the United Nations' list of territories by the United States in 1946.

What Is Colonialism?

a: control by one power over a dependent area or people
b: a policy advocating or based on such control.
(Webster's Dictionary)

The process and continuation of colonialism is dependent on one government, or group of people, imposing on another government, or group of people, the rules under which they live. The exercise of external control over a dependent area or people usually affects both the people of the area and their resources, which the colonial power seeks to use or exploit.

The exercise of colonial power over a people is considered a violation of the most basic human right of a people to make their own decisions about how they are governed, and how their mental resources are used.

What Is Decolonization?

Decolonization is the movement of a colony from a dependent status to a self-governing status. The colonial power's expression of self-denial for a decolonized status is usually evidenced through a process of self-determination.

What Is Self-Determination?

Self-Determination is the process by which the people of a colonial territory express their desire for a self-governing status. The expression of their desire for a decolonized status forms the basis of future negotiations to implement a self-

governing status. The attainment of the promise of self-determination and the resulting status from the process of self-determination is the attainment of a self-governing status, which may be self-governing and (2) the people, the people of the territory, the people of the territory.

What Do the Guarantees Mean?

In the process of decolonization, the people of the territory who have the right to self-determination (2) who colonized people of the territory (the people of the territory).

In Guam, the people of the territory are defined through the definition of native inhabitants in the Treaty of Paris (Article IX). These people were subsequently those who received U.S. citizenship under the Organic Act of 1950.

In international law, the people of the territory is understood to be those who would have made up a nation in the absence of colonialism. It has been understood by the separate personality of (1) "the people" (or sometimes "the colonial people") of a territory and (2) "settlers" and "migrants".

Self-Governing (Decolonized) Status Options

The attainment of a self-governing status is evidenced when a colony's status has been changed, and that change provides for the former colony to be either (1) an independent sovereign, (2) an equally integrated part of another country (e.g. Statehood in U.S. system), or (3) an associated state sharing its sovereignty with another country. While these statuses are common wisdom, they have been the international basis for evaluating whether a territory has attained full self-government in accordance with the United Nations Charter. The United States was the principal proponent of these status options being adopted in U.N. General Assembly Resolution 1541(1960).

Guam Is Guam

There are some things that a new political status will not change: Guam's geographically strategic location, the infrastructure that we have developed, the interest of others in Guam, our expectations about our future and our children's; these are all things that are not going to simply disappear.

Guam has a distinct personality. Today Guam is very different from other American territories like American Samoa or the U.S. Virgin Islands.

Similarly, one would not expect that an independent Guam will be like the Philippines or Panama, which were once U.S. territories and are now independent. Neither should one expect that Guam will be like the Federated States of Micronesia or the Marshall Islands if we choose Free Association. Nor would the State of Guam be like the State of California.

Guam is unlike any other place. A self-governing status will allow us to shape what we have in the way that we believe is best for our future.

This is not new. For over a century the people of Guam have sought to improve their political and economic status with the United States.

Before the establishment of the colonial administration of the United States, one of the first who tried to give voice to the stirrings of political consciousness was Joaquin Perez, who made an effort to establish an independent Legislature (1899).

Several more moderate attempts were made through the 1920s and 30s, with an emphasis on limiting the power of the U.S. Naval Governor. The push for home rule after WWII was aided by the U.S.'s promotion of the right to decolonization for colonial peoples — a right which was included in the United Nations' Charter. In Guam, efforts for more home rule were realized with the election of a Legislature following the Organic Act of 1950; the lifting of the military's Security Clearance program in 1962; and the Elective Governor Act of 1970.

In the early 1970s, Guam's leaders discussed political status, but in 1976 the U.S. government instead authorized a Guam Constitution. In 1979 Guam voters rejected a proposed constitution primarily because it did not change Guam's political status. A plebiscite on political status options in 1982 led to a draft Commonwealth Act in 1987. Ten years of unsuccessful discussion and negotiation with Washington (1988-1997) on the issues of concern to Guam made it clear that Commonwealth status for Guam was not going to be realized.

In Article 1 of the draft Commonwealth Act, the ultimate right to self-determination by the Chamorro people of Guam was recognized, and was to be exercised according to provisions to be contained in the Commonwealth's Constitution. Thus, the Commonwealth Act called on the U.S. to also recognize the rights of Guam's colonized people. In view of the unsuccessful efforts to gain passage of the Commonwealth Act, the Commission on Decolonization was

created under Guam P.L. 23-147 (1997). The Commission was established to give the colonized people the opportunity to exercise their right to self-determination and select a self-governing political status for their island homeland.

Guam's Current Status

Guam's colonial status is clear in the legal standards and the practices that flow from the United States' relationship with Guam. The "internal" U.S. legal standards and the "external" international standards both identify Guam as being non-self-governing. Guam is not only a colony in legal terms, but also in the way in which the U.S. administers Guam.

"Internal" (U.S.) Legal Standards

The "internal" (U.S.) legal standard that applies to Guam is the status of "unincorporated territory." This status in U.S. law was created by the U.S. Supreme Court (Insular Cases, beginning 1901, See *Bidwell v. DeLima* and *Downes v. Bidwell*) specifically for those islands that were ceded to the United States at the end of the Spanish-American War (1898).

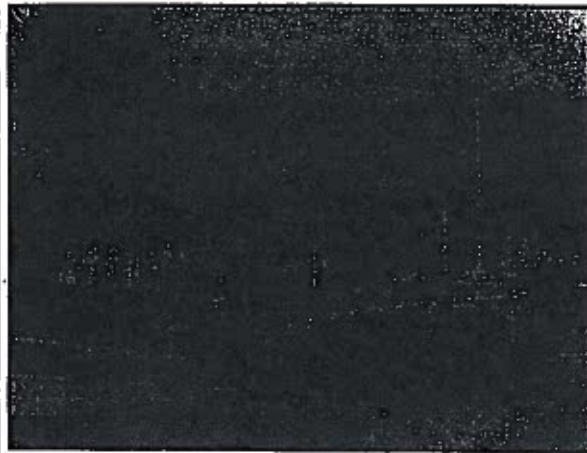
The "Territories Clause" of the U.S. Constitution provides,

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory and other property belonging to the United States. (U.S. Constitution Article 4, Section 3, Clause 2)

The provisions of the Treaty of Paris provide,

The civil rights and political status of the native inhabitants of the islands hereby ceded to the United States shall be determined by the Congress. (Article IX, 1898)

Based on the above, the U.S. Supreme Court found that former Spanish



Government House and the Governor's Palace, 1940. (Photo courtesy of the R.F. Titano Micronesian Area Research Center)

territories, (unlike earlier territories which had been acquired by the United States), were not promised to become a part of the United States. Where the U.S. Constitution had been the standard of governance in earlier acquisitions (later called "incorporated territories"), Congress, not the Constitution, was the guide for governance in the island territories. The creation of the status of "unincorporated territory" provided for one-sided colonial governance. As the United States considered the extension of civil government to Guam, along with limited U.S. citizenship, a Congressional report openly stated the colonial nature of the relationship

Guam is appurtenant to the United States and belongs to the United States but is not a part of the United States. (H.R. No. 1365, 81st Congress, 1st Sess. 8 (1949))

The 1950 Organic Act of Guam provided for a civilian appointed Governor (elected Governor, 1970), an

elected Legislature, and a judicial branch. The Organic Act also provided for U.S. citizenship to those "native inhabitants" who traced their ancestry to the Treaty of Peace between the U.S. and Spain by granting citizenship the U.S. Government established the mechanism to claim title to over 1/3 of the real property in Guam. Also, for the first time in U.S. law, Guam was declared an "unincorporated territory" of the United States (Organic Act, Section 3).

The legacy of Guam's status as a possession of the United States has been repeated time and again in judicial reviews of the applicability of U.S. legal standards to Guam.

Guam marches squarely to the beat of the federal drummer; the federal government bestows on Guam its powers and, unlike the states, which retain their sovereignty by virtue of the Constitution, Guam's sovereignty is entirely a creation of federal statute. (*Ngraingas v.*

Detachment: An overview of Guam's Status and Options

<p>"Congress has granted [Guam] far fewer powers of self government than the State of Colorado has granted the City of Boulder." -9th Circuit Court</p>	<p><i>Sanchez</i>, 858 F.2d 1368, CA9 1988, aff'd U.S. Supreme Court on other grounds) Congress has granted [Guam] far fewer powers of self government than the State of Colorado has granted the City of Boulder. (<i>Sakamoto v. Duty Free Shoppers</i>, 9th Circuit Court). After over a century of American colonial rule, the structure of the legal relationship between Guam and the United States remains unchanged. Guam is an "unincorporated territory" subject to the plenary authority of the U.S. government.</p>	<p>External (International) Legal Standards The United Nations is a Treaty of Nations. Article VI, Clause 2 of the U.S. Constitution says that "all treaties made...shall be the supreme Law of the Land." Guam was voluntarily inscribed by the United States on the United Nations list of Non-Self-Governing Territories (NSGT's) in 1946 and became Guam's administering power (U.N.G.A. Resolution 66-1). Today Guam remains one (1) of 16 territories that have yet to attain full self-government.</p>	<p>U.N. CHARTER The basis of the rights of the people of a NSGT can be traced to Article 73 of the United Nations Charter. Members of the United Nations which assume responsibility for the administration of territories whose people have not yet attained a full measure of self-government recognize [...] the principal that the interests of the inhabitants of these territories is paramount. (Article 73) In accordance with the Charter at Article 73, administering Powers accept(ed) as a sacred trust the</p>
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Fundamental Assumptions:
For the purposes of comparing and contrasting the existing status quo with the prospective conditions under each of the three political status options under consideration, it must be assumed, 1) that Guam drafts and adopts a constitution by general referendum after one of the status options is selected by plebiscite, and 2) that a basic system of laws reflecting new political and economic relationships is prepared for implementation immediately after the transition to the new status is accomplished.

	Immigration	Citizenship
STATUS QUO	U.S. control; point of entry for immigration, habitual residents; U.S. decides conditions on entry; U.S. rejects Guam requests for limits on immigration; systematic influx of immigrants from Asia and habitual residents continues; moderately liberal H-visa program; unrestricted access to U.S. labor market	U.S., as provided by statute, with economic and political benefits at the discretion of the U.S. government; little meaningful congressional representation; legal tiers of citizenship exist between native born, naturalized (both constitutional) and Chamorro (statutory) U.S. citizenship
INDEPENDENCE	Guam controls; not a U.S. point of entry; habitual residents subject to an income means test; immigration offers tied to commercial investment and other economic benefits to Guam; entry of U.S. and U.S.-associated citizens negotiated with impact aid from U.S. if they are admitted; few social or economic benefits for short-term immigrants; free emigration to U.S. for U.S. citizens; liberal B-, H- and L-type visa program; moderate-to-high risk of labor emigration during the early years, especially among settler and immigrant populations; somewhat restricted access to U.S. labor market.	One of the key levers manipulated by U.S. to secure a better negotiating position, as there is ambiguity on the subject; citizenship is assumed to be Guam; current U.S. citizens may be allowed dual citizenship (provided that the U.S. is willing to recognize that current U.S. citizens have a status of residing in a foreign country, and to build upon the European model under Maastricht, the U.S.-Israel model and the proposed U.S. Puerto Rico model); U.S. citizenship for future generations is unlikely regardless of jus sanguinis, and U.S. citizenship for non-U.S. citizens of Guam at cutover is unlikely; Guam citizenship is possible in exchange for commercial investment or other activity of economic benefit to Guam; Guam and U.S. exchange diplomatic representatives at the State Department level, enabling cooperative resolutions in most areas of contention
FREE ASSOCIATION	U.S. control unlikely; Guam controls driven by local decision-making process based upon needs and economic benefits; not a U.S. point of entry; U.S. habitual residents unlikely; U.S. security concerns accommodated; free entry of U.S. and U.S.-associated citizens probable, but with few social or economic benefits for short-term residents; free emigration to U.S. for U.S. citizens; liberal B-, H- and possibly L-type visa program; moderate risk of labor emigration during early years; minimal to no restrictions on access to U.S. labor market.	One of the key levers manipulated by U.S. to secure a better negotiating position, as there is flexibility on the subject and the nature of citizenship for Chamorros, just as with Puerto Ricans and Panamanians; U.S. and Guam dual citizenship is assumed for those with existing rights at the time of the status transition; U.S. citizenship for future generations is possible if not likely under jus sanguinis, but U.S. citizenship for non-U.S. citizens of Guam at cutover is unlikely; Guam and U.S. exchange diplomatic representatives with U.S. at State Dept level enabling easy resolution of most matters, including economic cooperation; annual funding of negotiated federal aid programs; economic and political benefits will be negotiated.
STATEHOOD	U.S. control; point of entry for immigration, habitual residents; entry consistent with uniform application of U.S. immigration law; moderately restrictive H-visa program; integration into U.S. labor market	U.S., with uniform economic and political benefits of member States of the Union.



President Truman signs the Organic Act of Guam in 1950. The Act extended U.S. citizenship to Chamorros and established Guam's status as an "unincorporated territory." (Photo courtesy of the R.F. Taikano Micronesian Area Research Center)

obligation to promote to the utmost...the well-being of the inhabitants of the[se] territories, and to this end:

(a) to ensure with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment and protection against abuses;

(b) to develop self-government, to take due account of the political aspirations of the people...

(c) to promote constructive measures of development...

DEVELOPMENT OF STANDARDS

Administering Power's support for these positive steps to provide for full self-

government were bolstered by the General Assembly's call for more specific factors to guide administering Powers (and Member States) in determining if a territory had achieved self-governance (U.N.G.A. Resolutions 567 (VI) and 648 (VII), 1952 and 742 (VIII), 1953). The process of self-government was elaborated on and clarified by attaching the principle of self-determination to the process of attaining full self-government. (U.N.G.A. Resolutions 1514, 1541 (XV), 1960).

These resolutions created the framework for the customary practice for NSGT's to achieve a fully self-governing status through the process of self-determination. Independence, the most obvious evidence of decolonization, was not the only form of self-government identified. The full integration of a

	Land	Defense	Individual Rights
STATUS QUO	Secure title to private property; federal landholdings withheld, with the turnover of identified excess properties unilaterally delayed for an extended period and at the convenience of the U.S.; there is a trend toward the return of some lands, but with counterbalancing increased U.S. interest in Guam land for wildlife preservation; the Chamorro land trust exists under Guam law.	U.S. authority; deterrence is the primary objective; moderate but declining industrial impact; the basic driver of U.S. policy in Guam is the military leadership; change in local impact of defense policy and strategy occurring as a result of unpredictable national policy decisions, an area in which local impact is largely irrelevant.	Protected, with most rights of U.S. except voting; rights of the indigenous group are indistinguishable from population at-large.
INDEPENDENCE	Chamorro property rights will come first, with probable limitations on land alienation to non-Guam citizens or non-indigenous persons for public and released U.S. federal lands; Guam leases bases to the U.S. for a combination of monetary fair market value and long term economic development aid; foreign investment in land will be significantly influenced by confidence in judicial system.	Guam takes part in a regional defense pact led by U.S.; Guam is mainly responsible for local National Guard, Coast Guard operations, and providing limited land for military bases; U.S. technical and financial assistance to improve defense capabilities and to closely align Guam and U.S. military forces; U.S. sponsor Guam's participation in bi- and multilateral pacts for regional defense; moderate-to-high industrial impact depending on the U.S. view of the Asian region and Guam's acceptance of U.S. military presence as it relates to other nations in region.	Rights protected in Guam constitution reinforced by acceptance of international standards of individual human rights and history of association with the United States; deferential benefits to individuals in indigenous group likely to be affirmed.
FREE ASSOCIATION	Secure title to private property; possible restrictions on transfer of government and released U.S. federal land to those who are neither Guam nationals nor indigenous; constitution to define land tenure for foreign nationals and commercial interests; federal landholdings reduced to a more reasonable level; U.S. military bases possibly leased at fair market rates, but more likely under a negotiated agreement in exchange for economic development and defense aid; as more land is requested by U.S., more aid is received by Guam as substitute for fair market exchange; foreign land ownership allowed, with some restriction on use and sale of government lands to non-citizens; likely prohibition on ownership of land by foreign governments under agreement with U.S.; tax incentives for private development of land spurs local and international investment, increasing the economic value of land in the medium term.	U.S. responsibility; this is the primary U.S. interest in Guam and a defining part of the relationship; U.S. dominance in the region is the primary objective; but ongoing U.S. military investment in Guam will be directly related to U.S. interests in deployment; U.S. retains the right to limit foreign access to Guam in case of a military emergency in exchange for economic aid over the long-term; bilateral and multilateral pacts are possible; local influence of U.S. military leadership fluctuates indirectly to the performance of Guam's other economic sectors.	Rights protected in Guam Constitution likely to be substantially similar to U.S. model, reinforced by close association with the U.S. and acceptance of international standards of individual human rights; deferential benefits to indigenous group likely to be affirmed.
STATEHOOD	Secure title to private property; federal landholdings and policies toward land are maintained, but their economic effect may be mitigated by increased political power in the U.S. system; U.S. recognition of the Chamorro Land Trust is likely.	U.S. responsible; fortification likely; higher industrial impact; the political influence of the military leadership is reduced by accountability to Guam's representatives in the U.S. Congress, leading to a more consistent application in Guam of military policies and strategy.	Strongly protected, with all rights of U.S. including voting; rights of the indigenous group are indistinguishable from population at-large.

Decolonization -- An overview of Guam's Status and Options

Territory into the political system of an administering Power was also a form of full self-government — when the people and the Territory have equal standing with other jurisdictions of the administering Power.

Somewhere between independence and integration - between full sovereignty and integrated sovereignty - is the equal status of shared sovereignty or "free association."

As the process of administering Power oversight of Non-Self-Governing Territories continued into the second, third and fourth decade of the United Nations, the encouragement to administering Powers at times took on the direct approach of reminding administering Powers what they should and should not do. These explicit references to the responsibilities of an administering Power appear to have resulted from the slow rate of compliance by an administering Power, with the commonly understood anti-colonial framework of the Charter.

Administering Powers had an obligation to treat the non-self-governing Territory of Guam in a way that promoted economic development, and increasingly the General Assembly adopted language that called for the protection of the permanent sovereignty of territories over their land and resources.

The General Assembly repeatedly discouraged migrant and settler populations being permitted into Territories, and called for the preservation of "the cultural identity," as well as the "national unity" of Territories. The General Assembly's actions with respect to providing both affirmative and negative guidelines to administering Powers speaks directly to the role which administering Powers have in the process of a Territory's movement to full self-governance.

WHY THE CHAMORRO PEOPLE?

As the scrutiny of the process of the decolonization became more directed by the United Nations (beginning with Resolution 1514 and 1541), "the people" of NSGT's became known as "colonial peoples" and peoples under "colonial and alien domination." This characterization of the peoples of NSGT's make it even more clear that "the people" were those who were in fact colonized.

Settlers or migrant populations in

The United Nations is a Treaty of Nations. Article VI, Clause 2 of the U.S. Constitution says that "all treaties made ... shall be the supreme Law of the Land."



NSGT's allowed there by administering Powers were seen to have a distinct personality that was separate from "the people of the Territory."

Beginning with the inscription of a territory on the list of NSGT's, "the people" or "inhabitants" as used in the Charter has meaning. As noted by the by the Special Rapporteur of the Subcommittee on the Prevention of Discrimination and Protection of Minorities, for the purposes of self-determination, the term "people" should apply to:

...peoples occupying a geographical area which, in the absence of foreign domination, would have formed an independent state. (1981)

Generally, this principle created a distinction between immigrants and

	Protection of Rights	Cultural	Health
STATUS QUO	Stable system, although rights generally available in the U.S. are selectively applied; rights of Chamorros are largely indistinguishable from the population at-large; the U.S. is, historically, unresponsive to Guam's call for recognition of Chamorro rights.	Liberal acceptance of multicultural backgrounds, with a tendency toward assimilation of outside cultural traits that has resulted in the gradual displacement of Chamorro cultural dominance.	Fairly equal application of health care grants and technical assistance as in most states; Guam not included in all new initiatives until information trickles in; on-site advisors discontinued nearly 10 years ago, putting Guam further out of touch; regional health organization participation (WHO, SIP, etc) limited on rotating basis with other U.S. territories; health-related welfare programs limited by capped amounts (Medicaid, Food Stamps, AFDC).
INDEPENDENCE	Guam's constitution and laws are anticipated to be consistent with the Universal Declaration of Human Rights, perhaps modeled after those of the U.S.; constitutional preferences for Chamorros (e.g. government jobs, land tenure, economic development programs) are likely; Guam does not abridge the rights of any guest resident or visitor, instead conveying an ongoing feeling of welcome.	Chamorro cultural and language resurgence, with possibility of mandated use of Chamorro for government activities, but U.S. English remains the language of instruction; continued open acceptance of other cultures, particularly for those who contribute significantly to the economy of Guam.	Discontinuance of formal direct U.S. health program funding thru grants; assistance possible thru foreign aid directly or via international organizations; as health is a high international priority, the U.S. will likely make every effort to maintain a base line level of health care services; technical assistance much more complicated thru international organizations, although international assistance now readily accessible.
FREE ASSOCIATION	Guam's constitution and laws are very close to the U.S. model, but there are some constitutional provisions for Chamorro preferences (e.g., government jobs); Guam does not abridge the rights of any guest resident or visitor, instead conveying an ongoing feeling of welcome.	Stronger manifestations of Chamorro culture, but generally very liberal and open acceptance; U.S. language remains as the common means of communication, reflecting close ties to U.S., but Chamorro language is in ascendance.	Continued application of most major health programs likely as a negotiated item; also likely to continue and possibly elevate in status as the health care center for Micronesia; full participation in all international health organizations and aid programs.
STATEHOOD	Stable Constitution, universally applied; rights of Chamorros are largely indistinguishable from the population at large, with indigenous rights issues problematic.	Liberal acceptance of multicultural backgrounds, with an understanding and acceptance of the assimilation and displacement of Chamorro cultural dominance.	Application of all health programs/grants and technical assistance; likely that discontinued participation in any international health organization; information relayed through Federal channels, i.e., State Department/CDC to States; delay or absence of information on regional health trends could compromise preventative efforts.

Decolonization -- An overview of Guam's Status and Options



The return of land no longer used by the military has been pushed since the First Guam Legislature, in the draft Commonwealth Act and by original landowners. Ownership of land is a defining element of Guam's political status and economic development.

settlers and the people or colonized peoples. In specific cases, the United Nations has weighed in to establish the rights of the people in a particular Territory. The latest example is the identification and registration of the legitimate people of Western Sahara, who are eligible to vote in a plebiscite on that Territory's status (U.N. Security Council Resolutions, 1997-99).

From its first reports to the United Nations, the United States clearly understood that the people of Guam were the Chamorro people. In the late 1940s and 1950s, U.S. reports to the U.N. did not identify military personnel, white civil servants or other immigrants as part of the people of Guam.

Even in the 1960s, when questioned at the U.N. about military personnel

stationed in Guam, U.S. representatives made a point that they did not participate in Guam politics. The role of immigrants from Asian countries was similarly disregarded by U.S. representatives as having any effect on Guam's government.

Migration policies of colonial powers have long been seen as a traditional practice of colonial control; either to assume control over the peoples of colonial territories, or to assimilate their populations. International standards in opposition to migration as an instrument of colonialism was made even more clear by the U.N. Plan of Action for the Implementation of the Declaration on Decolonization, U.N.C.A. Res. 35/118) in 1980 which noted:

8. Member States shall adopt the necessary measures to discourage or

	Legal and Judicial Framework	Education
STATUS QUO	Guam legal rights guaranteed by Organic Act and Guam Code, and limited protections under U.S. Constitution; legal rights generally follow U.S., with a few exceptions; standard guarantees of individual protection against abuses by government; Organic Act incorporates Bill of Rights, except grand jury indictment and civil trial by jury; Article 1, section 9, clauses 2 and 3, ensure habeas corpus and no bill of attainder, prohibit ex post facto law, and law impairing obligations under contracts; Article IV extends to Guam the relation of States to each other, including the full faith and credit clause and privileges and immunities clause of citizens of the various States; Guam's judicial/ legal system is an established system of jurisprudence based on precedents of U.S. law; relatively stable legal and economic climate; Court system generally patterned after other U.S. jurisdictions, except Ninth Circuit Court of Appeals, rather than the U.S. Supreme Court, has appellate jurisdiction over decisions of the U.S. District Court of Guam.	Poorly funded due to fiscal constraints on GovGuam and turnover of immigrant children in school system; DODEA has established a two-class public educational system; costs of public education unusually high due to multilingual, multicultural background of student population; significant federal support of non-DoD programs; Dept of Education grants and student financial aid programs.
INDEPENDENCE	Legal rights negotiated, but subject to Guam constitution and laws; legal and economic stability at least temporarily affected, even if legal structure is maintained; economy adversely affected if legal stability and the protection of economic rights are removed or significantly altered.	Continuation of existing standards with large resource allocation directed to long-term residents; negotiated level of U.S. federal education grants and student financial aid programs lower than status quo; local school system empowered to develop locally/regionally relevant curriculum; international standards applicable; DODEA continues under U.S. standards.
FREE ASSOCIATION	Legal rights partially negotiated, generally controlled by Guam constitution and laws; Guam could either reenact existing laws or create an entirely new code and constitution different from the status quo; legal and economic stability potentially affected temporarily, even if legal structure is maintained; economy could be adversely affected if legal stability or protection of economic rights are significantly altered; major change in the current judicial structure of the island unlikely, except recourse to U.S. federal courts; federal funding of the judiciary subject to negotiation.	Continuation of existing educational standards, with resource allocation directed toward long-term residents; negotiated level of U.S. federal education grants and student financial aid programs (likely lower than status quo); DODEA continues under U.S. standards; local school system empowered to develop locally/regionally relevant curriculum; U.S. (and other) accreditation standards applicable.
STATEHOOD	Legal rights same as status quo, except enhanced by adoption of entire U.S. Constitution; Guam Code Annotated has provisions respecting business and the economy, with U.S. federal oversight; contracts clause in Article 1 of U.S. Constitution, the takings clause of the 5th Amendment, civil procedure, remedies, business regulation, real property law, business structure and function, Uniform Commercial Code and Uniform Consumer Credit Code all apply; legal stability and the protection of economic rights; any major change in the current judicial structure of the island unlikely, except a slight change in role played by Ninth Circuit Court of Appeals relative to Supreme Court of Guam; U.S. federal funding assistance to Guam Courts continues.	Likely to adopt state-level property taxes to fund education; adoption of U.S. performance standards and higher federal education grants; reintegration of DODEA schools and establishment of uniform U.S. standards; costs of public education high due to multilingual, multicultural background of student population; educational grants, student financial aid from U.S. increases because of influence of voting representatives in U.S. Congress.

"Members of the United Nations which assume responsibility for the administration of territories whose people have not yet attained a full measure of self-government recognize [...] the principle that the interests of the inhabitants of these territories is paramount." (United Nations Charter, Article 73)

prevent the systematic influx of outside immigrants and settlers into Territories under colonial domination, which disrupts the demographic composition of the those Territories and may constitute a major obstacle to the genuine exercise of self-determination...by the people of those Territories.

Clearly a distinction has been made between "outside immigrants and settlers" and the "exercise of self-determination ... by the people" of NSGT's. Consistent with this distinction, the General Assembly has annually adopted resolutions regarding the responsibility of Member States with respect to the "permanent sovereignty of the people of the Non-Self-Governing Territories over their natural resources..."

Since Guam's inclusion on the list of NSGT's, the U.S. has made no effort to remove Guam based on the attainment of self-government. Not at the time of the Organic Act, elected governor, or at any other time has the U.S. asked for Guam to be removed from the list of NSGT's. Over the period of time which Guam's self-governance has been denied, international law has become more specific with respect to the rights of the people of NSGT's (International Court of Justice cases, *Western Sahara, Namibia*).

General Assembly resolutions on Guam have also become more specific, reflecting the views of Guam and the concerns raised by representatives of Guam about the conduct of the United States. Guam remains one of the 16 territories on the United Nations list.

	Travel	Affirmations	Foreign Affairs
STATUS QUO	Relatively unrestricted	The U.S. has unilateral rights, with liberal application at the moment: Guam's agenda in general has had few applications in past practice, nor has it been regularly applied throughout most of Guam's economic and political development; U.S. policy oversight is bureaucratic, with a shifting set of national political agendas; petitions from Guam to respond to Guam's agenda are largely ignored; there is delegation of authority in areas such as local legislation, customs, tax collections; Guam has no inherent right to govern itself.	Official representation by the U.S. in all international political forums and for all international treaties; Guam's interests and agenda have little impact on U.S. policy positions or negotiations; calls by Guam for inclusion in organizations (e.g., APEC) and instruments (e.g., tax treaties) are largely denied or ignored; Guam's personality is represented through observer status in some international forums (SPC, ESCAP) and in the Olympics.
INDEPENDENCE	Mostly unrestricted; visa access to U.S. for all except U.S. citizens (who travel to U.S. without visas), but liberal visa administration; totally unrestricted for Guam citizens' international travel with appropriate visas, no requirement to adhere to U.S. foreign travel restrictions.	Unilateral decisions by Guam are affected primarily by desires of the local populace; there is less relative concern for the U.S. agenda, except in areas of dependency and mutually beneficial cooperation, which are almost exclusively related to defense and historical ties of friendship (i.e., many economic ties are primarily driven by Guam's preferences for U.S. goods); more harmonious relations with the U.S., as affirmations are based on mutual respect and mutually agreed sovereign ties.	Guam provides its own international representation; Guam and U.S. exchange diplomatic representatives, enabling economic cooperation and easy resolution of most matters; U.S. political relationships and agendas are of little relevance, except mutual issues of security; key relationships are state-to-state, with emphasis on U.S. and Asia-Pacific nations; new economic, political alliances forged within limits of mutual defense pact; potential for new investment and additional sources of economic growth through negotiations with Asia-Pacific governments; Guam has UN membership.
FREE ASSOCIATION	Relatively unrestricted travel to U.S. as there is no visa requirement because of U.S. citizenship; completely unrestricted for Guam citizens' international travel with appropriate visas, since there is no requirement to adhere to U.S. foreign travel restrictions	Association can end by unilateral decision of either U.S. or Guam, but this is unlikely on either side; however, there are unilateral decisions by Guam in all other contentious matters except defense and areas of mutual cooperation; Guam agrees to primacy of U.S. military interests, enabling U.S. to deny access for national security, with significant U.S. economic development aid provided in exchange for this concession; there are few areas of contention as the U.S. freely accepts Guam's political status and Guam freely accepts the continuation of U.S. policy in many significant areas.	Guam, U.S. exchange representatives at State Department level, enabling resolution of most economic cooperation matters; U.S. handles significant affairs of state for Guam while Guam maintains separate personality and economic consulate in a few key countries; Guam enters bilateral trade negotiations and international/regional organizations where desired, but defers to U.S. on many issues because U.S. can leverage more in negotiations; closer affiliation for mutual benefit with other U.S.-affiliated Chamorro and Micronesian states is likely over time; UN membership.
STATEHOOD	Relatively unrestricted	State's rights with Guam agenda represented by two U.S. Senators and one U.S. Congress Representative; U.S. federal powers are defined by the uniform application of the U.S. Constitution; mutual consent has the meaning applied in U.S. Constitution.	Official representation by the U.S. in all international political forums and for all international treaties; access with limited status in some international forums (SPC, etc.); however, Guam's agenda is more important in formulating U.S. policy positions and negotiations due to the representation of Guam by voting members in the U.S. Congress.

Political Aspirations and a Brief History of Guam's Status Initiatives

It did not take long for Guam's Chamorros to appreciate the American system of democracy, and to desire a greater degree of self-government than was provided under Guam's early naval government. Petitions for citizenship - an effort to limit naval authority over Guam - began in 1902. In response to the continuing expression of Guam's peoples desires, the First Guam Congress was established (1917-30) to serve as an advisory group between the Chamorro population and the military administrators.

The Second Guam Congress was formed in 1931. This body played much

the same role as its predecessors, but was better organized. In 1936, they supported a long and arduous trip to Washington, D.C. by B.J. Bordallo and EB. Leon Guerrero. Their purpose was to petition the Congress for U.S. citizenship, and an improved political status for the people of the island.

Although citizenship had been given to Puerto Ricans (1917) and Virgin Islanders (1927) that was not to be the case for Chamorros whose efforts were cut short by the Japanese occupation during World War II (1941-44).

After the War, it took little time for the Chamorros of Guam to resume their efforts toward greater internal political authority. Ironically, it was the federal government's desire to acquire land in Guam for its military operations, as well as

the anti-colonial position of the U.S. at the newly formed United Nations, that forced the issue of citizenship for the Chamorros.

The 1950 Organic Act of Guam was an important event in the political history of the Chamorro people because it enhanced the status of individuals and provided a modest degree of internal self-government. However that same federal document applied the title "unincorporated territory" to Guam for the first time.

While the Organic Act represented an advancement toward internal political authority for the civilian inhabitants of Guam, the people wanted more.

In 1960, President Eisenhower appointed the first Chamorro Governor of Guam. This was a meaningful, albeit

token, gesture acknowledging Chamorro rights to the civilian governance of the island. In 1968, Congress responded to Guam's push for an elected chief executive and passed the Executive Governor Act. It provided the people of Guam the ability to elect their own executive leadership for the first time since Spanish colonization began, some 300 years before.

In the early 1970s, with rising standards of living and new pressures from immigration, the discussion of political status began. Status Commissions in the 13th 14th and 15th Guam Legislatures looked at Guam's potential and the limits put on Guam by federal laws. In 1976, in response to Guam's concerns, Congress allowed for Guam to adopt a Constitution, but limited the issues that Guam could address in its Constitution.

"Status Commissions in the 13th 14th and 15th Guam Legislatures looked at Guam's potential and the limits put on Guam by federal laws. In 1976, in response to Guam's concerns, Congress allowed for Guam to adopt a Constitution, but limited the issues that Guam could address in its Constitution."



The draft Guam Constitution being presented by Guam leaders to President Jimmy Carter. (Photo courtesy of the R.F. Taitano Micronesian Area Research Center)

	Nationality	Natural Resources
STATUS QUO	Increasingly a mix of Chamorro, Asian and U.S. cultural and linguistic linkages	Subject to U.S. environmental constraints; ascendant view toward increasing restrictions in use of property, including returned excess federal property; trend toward greater strain on renewable resources as a result of population growth, exacerbated by virtually unlimited immigration.
INDEPENDENCE	Relatively more Chamorro with relatively more Asian linkages	Redefinition of local law to accommodate local conditions and economic development prerogatives; however, standards are compatible with international conventions; increased participation in Pacific regional environmental and resource management programs; strain on renewable resources reduced, partly as a result of reduced immigration.
FREE ASSOCIATION	Relatively more Chamorro with relatively more U.S. linkages	Subject to local law, international convention, with more flexibility in environmental standards, especially as related to use of private land; likely continued coordination with U.S. government environmental programs; increased participation in regional environmental and resource management programs; strain on renewable resources reduced, partly as result of reduced immigration.
STATEHOOD	Relatively more U.S. cultural and linguistic linkages	Subject to U.S. environmental constraints with stricter enforcement leading to continuing conflict with property rights and development; political power within U.S. system may mitigate, but not eliminate conflicts; U.S. position and interests in regional environmental and resource management programs likely to be staffed by Guam representative; strain on renewable resources not well regulated.

In 1979, under United Nations observation, Guam voters rejected the proposed Constitution that had been pre-approved by the U.S. Congress. The fact that the Constitution would not change Guam's colonial status as an unincorporated territory was a driving force behind the Constitution's defeat. Guam Public Law 15-128 (1980) established the Commission on Self-Determination. The Commission's initial responsibility was to remedy this situation by conducting a plebiscite on the political status that all registered voters desired.

The first plebiscite was held on January 12, 1982, resulting in a plurality vote for commonwealth (49%), followed by statehood (26%), status quo (10%), incorporated territory (5%), free association and independence (4% each) and "other" (2%). A runoff plebiscite was held on November 2, 1982, resulting in the selection of commonwealth status (73%) over statehood (27%) as the preferred political status of the Guam electorate.

Guam's leadership spent the next several years drafting and refining a legislative initiative for approval by the island's voters before submission to the U.S. Congress.

The "Guam Commonwealth Act" was introduced in the U.S. House of Representatives on February 17, 1988, and in the Senate on March 7, 1988. The first hearings on the Bill were held before the Subcommittee on Territorial and Insular Affairs of the Interior Committee of the House of Representatives in Honolulu, Hawaii, in December, 1989.

At the end of two days of hearings on the legislation, Subcommittee Chair Ron DeLuco, of the U.S. Virgin Islands, directed the Guam Commission on Self-Determination to gain the concurrence of the federal Executive Branch on the wording and provisions of the Commonwealth Act. Once obtained, Guam was to resubmit the resulting legislation to the Congress.

What Happened to Commonwealth?

In 1990, President Bush's administration organized a high-level Task Force to study and discuss the Commonwealth Act. Every second month, the Task Force and the Commission met face-to-face in attempts to agree mutually upon language and provisions for Guam's commonwealth

"In 1987, Guam voters approved of limits on immigration and the Chamorro right to self-determination."

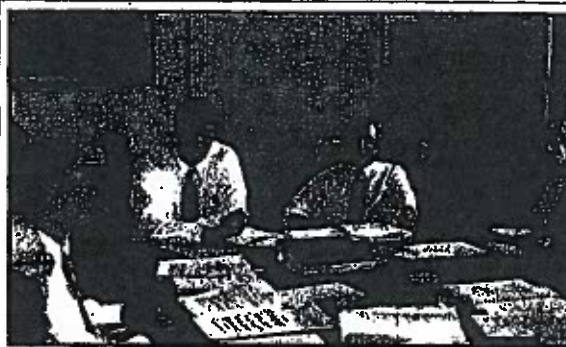
status. After more than two years of intensive discussions, a common ground could not be achieved. The effort, while a success in many areas, was an overall failure.

Although attempts to achieve Commonwealth status continued, little progress occurred with the Bush Administration Task Force after late 1992. When the Bush Administration released its final report in January 1994 (a few days before President Clinton was sworn into office), it backed out of signed agreements with Guam (such as limits on immigration) and proposed continued U.S. governance of Guam without Guam's input.

Appealing to the newly elected Clinton Administration, Guam leaders sought a Special Representative of the U.S. President to negotiate with Guam. It was hoped that a Presidential representative would be able to move beyond the narrow bureaucratic views of the U.S. Executive Branch. After four years of negotiations with the Clinton Administration (and three different Special Representatives) it became clear that efforts to advance Guam's relationship with the United States beyond that of a possession would not occur. As the Clinton Administration's report to the Congress (October 1997) noted:

The Administration believes that various agencies with knowledge and expertise on a particular subject...should continue to be vested with ultimate authority to enact and apply federal regulations to Guam.

The overall experience of Guam was one of frustration. The desires of Guam voters were not just pushed aside by U.S. officials, they were actively undermined. For example: Guam voters asked for a limit on immigration in the Commonwealth Act, but between 1988 and 1997, the United States admitted almost 50,000 persons to Guam as



Governor Carl T.C. Gutierrez and U.S. Special Representative John Garamendi in meeting with federal agencies (1996).

naturalized U.S. citizens, permanent resident aliens or habitual residents. This number is over 35% of Guam's 1990 census population.

Furthermore, while the Guam Commonwealth Act sought the return of lands not used for military purposes, the U.S. Department of Interior's Fish and Wildlife service increased claims in the 1990s on Guam lands.

Attempts to change the status quo through Commonwealth were not only rejected by the United States, but Guam's interests were actively undermined.

Current Efforts

Public Law 23-147 (1997) created a Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination (the Commission on Decolonization).

A decision has been made to move forward with a Chamorro vote to select the island's ultimate political status in relation to the United States.

Chapter 21, Section 21106 of the Guam Code Annotated, created by Public Law 23-147, establishes three Task Forces to study and advocate the three options to be considered for Guam's prospective political status: One for Independence, one for Free Association, and one for Statehood. Section 21110 of the same Chapter specifies the language of the ballot on which votes shall be cast, as follows:

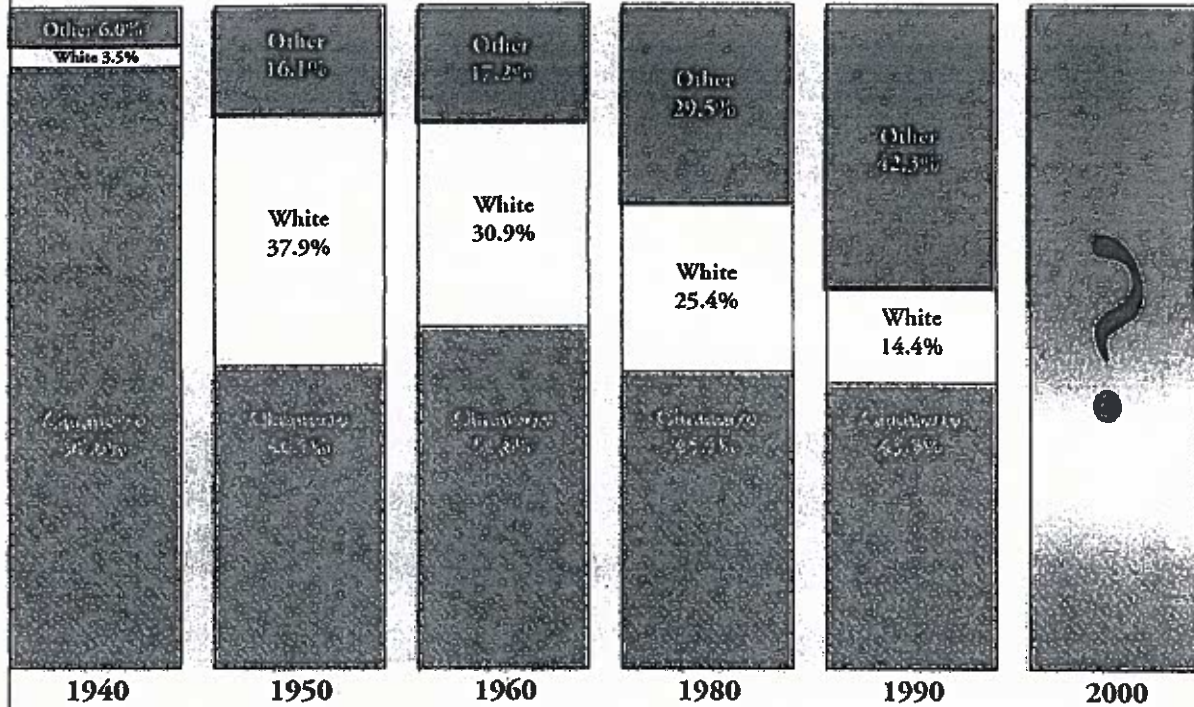
- In recognition of your right to self-determination, which of the following political status options do you favor? (Mark ONLY ONE):
1. Independence ()
 2. Free Association ()
 3. Statehood ()

A plebiscite is to be held to accord Guam's "native inhabitants" (as defined by the United States in the Treaty of Paris) the opportunity to exercise their right to self-determination. The "native inhabitants" are those defined by the United States through the extension of U.S. citizenship on August 1, 1950, or persons who trace their ancestry from a person who was in Guam on or before April 11, 1899 (or such persons born before that date but temporarily absent on that date.)

In order to better educate the voting public on the three political status options, the three Task Forces were formed with the objective, in part, to assist in a public education campaign on each of the status options. This campaign is necessary to clarify the prospective conditions in Guam under each of the respective status options, so that the people can make a more informed choice.

"Attempts to change the status quo through Commonwealth were not only rejected by the United States, but Guam's interests were actively undermined."

Population Distribution by Percentage



SOURCE: U.S. Bureau of Census Decennial Reports, 1990
 OTHER: Filipino and other immigrants primarily from Asia

What Happens After the Vote?

Guam's Self-Determination Vote – or choice of the people's preferred self-governing status – is the first step in the Decolonization process.

Moving from a non-self-governing status to a self-governing status requires more than just a vote. It requires an end to colonial rule and the establishment of a new government. This process requires the administering Power to turn over its control to the new governmental system.

The transfer of self-governing powers to the people of Guam requires two interrelated components: (1) the transfer of powers from the administering Power; and, (2) the non-

self-governing territory's preparation to assume the powers of self-government. The first element requires the administering Power's agreement to transfer Powers, while the second (and related element) requires the development of a constitutional government to assume the powers of self-government.

The U.S. is obligated to transfer self-governing powers to Guam should Guam choose independence. The sharing of powers under Free Association would be a negotiated process, while Statehood would require the approval of the United States Government and States of the United

States. The U.S., through the U.N. Charter and its subsequent ratification of the International Covenant on Civil and Political Rights (1993) is committed to support a self-governing status for Guam although obviously it has rights of its own when it comes to transferring powers or establishing negotiated ties with Guam.

Part of the U.S. obligation in the transfer of powers to Guam is to assure that the self-governing status that Guam chose – and the Constitution that Guam establishes – satisfies international standards of human rights. Thus, as Guam develops its Constitution it is assumed that that

document would conform to the internationally accepted standards of universal franchise and the equal protection of the rights of all citizens without regard to race, sex or religion (See, International Covenant on Civil and Political Rights).

After Guam has established a Constitution and the United States has extended the powers of self-government to Guam consistent with the Constitution of Guam, then Guam will be self-governing.

The hope of self-government, which has remained alive through almost four hundred years of external rule, awaits our informed decision.

**COMMITTEE ON
DESEGREGATION**

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Joe Garrido, Chairman

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Eddie Duenas, Chairman



CANCELLED: First Notice of Public Hearing - Thursday, March 16, 2017 at 6:00 PM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Thu, Mar 9, 2017 at 7:15 PM

To: phnotice@guamlegislature.org

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Bcc: neil@postguam.com, Sabrina Salas <sabrina@kuam.com>, parroyo@k57.com

March 9, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing - CANCELLED Thursday, March 16, 2017 at 6:00 PM

Håfa Adai!

Please be advised that the Committee on Culture and Justice has CANCELLED its notice to conduct a public hearing on Thursday, March 16, 2017, beginning at 6:00 PM in *l Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *l Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior

to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

--
The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

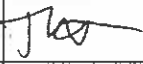
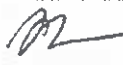

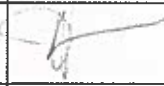
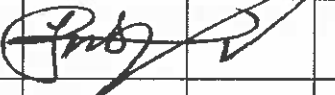
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COMMITTEE VOTE SHEET

Resolution No. 51-34 (LS) – Relative to supporting that the Government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the native inhabitants of Guam.

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Vice Speaker Therese M. Terlaje Chairperson 3/17/2017		✓				
Senator Telena C. Nelson Vice Chairperson		✓				
Speaker Benjamin J.F. Cruz Member						
Senator Joe S. San Agustin Member		✓				
Senator Frank Blas Aguon, Jr. Member 3/17/17		✓				
Senator Louise Borja Muna Member						
Senator Fernando Barcinas Esteves Member	FBE	✓				

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN
2017 (FIRST) Regular Session
LEGISLATIVE SESSION VOTING RECORD

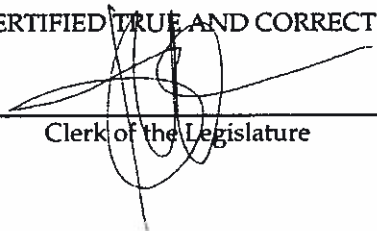
Resolution No. 51- 34 (LS)

Speaker Antonio R. Unpingco Legislative Session Hall
 March 17, 2017

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. ADA					√	√
Senator FRANK B. AGUON, JR.	√					
Senator William M. CASTRO	√					
Speaker B.J.F. CRUZ					√	√
Senator James V. ESPALDON	√					
Senator Fernando Barcinas ESTEVES	√					
Senator Régine Biscoe LEE	√					
Senator Tommy MORRISON	√					
Senator Louise B. MUÑA	√					
Senator Telena Cruz NELSON	√					
Senator Dennis G. RODRIGUEZ, Jr.	√					
Senator Joe S. San AGUSTIN	√					
Senator Michael F.Q. SAN NICOLAS				√		√
Vice Speaker Therese M. TERLAJE	√					
Senator Mary Camacho TORRES	√					

TOTAL:	12	0	0	1	2	3
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused

CERTIFIED TRUE AND CORRECT:



 Clerk of the Legislature

I = Pass



**OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice**

*I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature*

COMMITTEE REPORT DIGEST

I. OVERVIEW

Resolution No. 51-34 (LS) was introduced on March 9, 2017 by Vice Speaker Therese M. Terlaje, and was subsequently referred by the Committee on Rules to the Author on March 10, 2017.

Resolution Nos. 51-34 (LS) and No. 52-34 (LS) were introduced during the March 9, 2017 session within hours after Vice Speaker Terlaje learned about the threatened lawsuit against the Chamorro Land Trust Commission (CLTC) and a day after the Davis v. Guam District Court decision was released. It was urgent that both resolutions be passed immediately given the April 7th appeal deadline for the Davis case, and the CLTC deadline of January 2017 (2 months ago). The matters discussed in Resolution Nos. 51-34 (LS) and 52-34 (LS) are complicated legal issues that will require extensive analysis and immediate decisions by the Attorney General and Governor of Guam. The resolutions were meant to show the support and solidarity of the Legislature with the Executive Branch and the AG, and in no way prevent the government of Guam from seeking other options. There were enough votes and support from the other senators during the March 9th session to pass both resolutions, but Senator Michael F.Q. San Nicolas and a couple of other senators requested that a public hearing be held. Speaker Cruz indicated that a special session would be called as soon as a public hearing was held, since the next session was not planned until after April 17th. Unfortunately, Speaker Cruz left off-island on the day of the public hearing, which was held five working days after the March 9th session.

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The public hearing notice was sent out on March 9, 2017, with ample time for senators to consult with or invite interested parties to participate in the public hearing. The hearing lasted over 5 hours; only Senator San Nicolas and Vice Speaker had questions for the panel. One attorney was asked to wait for further questioning by Senator San Nicolas after the other testifiers had their turn. The attorney waited, but Senator San Nicolas left before the hearing was concluded without resuming his questions to the attorney.

The audio from the public hearing was uploaded to the Legislature website and attached to the committee report, along with all written testimony, a digest, and all other requirements per the standing rules.

The committee report was filed with the Committee on Rules but the COR Chair refused to approve it for upload to the website prior to the March 17, 2017 session. The report was made available on the session floor.

Discussion on the resolutions was halted by a motion of Senator Thomas A. Morrison which Vice Speaker Terlaje did not support. Senator San Nicolas left the room during the vote. Both resolutions were adopted.

These resolutions do nothing to change current Guam policy and simply convey that the Legislature supports the defense of current policies and preservation of options at this time. Nothing in this resolution prevents the pursuit of all avenues available to the government of Guam, nor prevents any senator from proposing another policy or course for the government and people of Guam.

The Committee on Culture and Justice convened a public hearing on Resolution No. 51-34 (LS) on March 17, 2017 at 9:00 AM in *I Liheslatura's* Public Hearing Room.

Public Notice Requirements

Notices for this public hearing were disseminated via email to all senators and all main media broadcasting outlets on March 9, 2017 (5-Day Notice) and again on March 14, 2017 (48-Hour Notice). The notice was also published in the Guam Daily Post on March 10, 2017 and in the Pacific Daily News from March 14th through 16th.

Senators Present

Vice Speaker Therese M. Terlaje, Chairperson

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Senator Telena Cruz Nelson, Vice Chairperson
Senator Régine Biscoe Lee
Senator Joe S. San Agustin
Senator Michael F.Q. San Nicolas
Senator Frank Blas Aguon, Jr.
Senator James V. Espaldon
Senator Thomas A. Morrison
Senator Mary Camacho Torres
Senator Louise Borja Muna
Senator William M. Castro
Senator Fernando Barcinas Esteves

Appearing Before the Committee

Bob Pelkey
Harold Cruz
Ofing (Josephine) Jackson
Vicente Garrido
Enrique Torres
Robert LG Benavente
Jamela Santos
Attorney Michael Phillips
Senator Carmen Kasperbauer
John Raymond Aguon
Senator Hope Cristobal
Lasia Casil
Ray Lujan
Darrin Pangelinan on behalf of Lakretia Castro-Santos and Social Work Student Alliance
Rosario Perez
Jose Garrido
Josette Quinata
Carlos Camacho
Maga'lāhi Aniti
Dr. Michael Bevacqua
Trini Torres
Siñot Ronald Laguana
Ned Pablo
Frank Munoz

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Dr. Rosa Palomo
Desiree Ventura
Shannon McManus
Alissa Eclavea

Submitted Written Testimony

Dr. Robert Underwood
Rita Franquez
Ned Pablo
Jamela Santos
Connie Rose Lujan Sayama
Mayor June U. Blas and Vice Mayor Jessie P. Bautista (Barrigada)
Maria Pangelinan, Executive Director, Guam Election Commission
Anghela Santos
Dr. Elizabeth Bowman
Kelly Marsh
LeRoy Moore

II. SUMMARY OF TESTIMONY & DISCUSSION

The public hearing was Called-to-Order at 9:08 AM.

Vice Speaker Therese Terlaje, Chairperson of the Committee on Culture and Justice, called the hearing to order and announced Resolution No. 51-34 (LS), As Introduced. Chairperson Terlaje went over protocol for those planning to give testimony. Chairperson Terlaje asked that everyone remain seated until their names have been called to the table and acknowledged to begin their testimony, and to limit their testimony to five minutes to ensure enough time for everyone. If someone would like more time for their testimony, they would be given another chance in a second round. Chairperson Terlaje stated that the senators are present to hear from the public. She stated that they will give those testifying all the respect they can and she asked for the same respect from the public.

Chairperson Terlaje invited those listed on the sign-in sheet to come forward and have a seat at the table in order to testify.

Chairperson Terlaje: First panel I'd like to ask those who have signed up, I will read the names and if you can come up and testify.

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Senator Michael San Nicolas: Madam Chair, may I just request a brief point of order. In the ruling of the Davis case, part of what was brought up was the official record of what was stated during some government proceedings. I'm just a little concerned that if we make similar statements in the course of this resolution that it might actually be used against the case in any potential appeal and so if I can request respectfully that perhaps I see Attorney Mike Philips in the audience or if the Attorney General's representative is present, if an attorney can first come and speak to maybe any kind of guidance we can get as to what may or may not be put on the record that might be used against the case in the future, because when I read the case, they did put transcripts in there about certain statements that were made that was used to reinforce the argument of the opposition. So if we could perhaps get some very clear legal clarification on what may or may not be a risk. Madam Chair.

Chairperson Terlaje: I don't see a representative of the Attorney General here. I don't know if there is anyone else in the audience who would like to address that, but I don't know the answers.

Senator Michael San Nicolas: Ok then, if I can just clarify Madam Chair that way at least everyone will have in mind what I am talking about. In the ruling on the Davis case they specially used the fact that we spoke about this needing to be specifically for Chamorro people that they used that as the grounds to rule partly that was part of what they used on the grounds to rule against the people of Guam and so if we testify today that this needs to happen for Chamorro people and it comes out looking like that's all it's for, they will take these transcripts and use it in the appeal. And the purpose of this resolution is to actually support an appeal so I just want to make sure that we are careful because we don't want to actually undermine the very case that a lot of us are here to support today. Ok? Thank you Madam Chair.

Chairperson Terlaje: Thank you very much Senator San Nicolas. That is correct that comments by elected officials and the public were cited in the decision. And that is good caution. I am going to very briefly read the resolved clauses of this Resolution 51 just for the record and for those who are watching.

Resolved, that I Mina'trentai Kuattro Na Liheslaturan Guahan does hereby, on behalf of I Liheslaturan Guahan and the people of Guam, support that the Government of Guam move forward to appeal the ruling of the District Court of

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Guam to assist in defending the rights of the native inhabitants of Guam; and be it further Resolved, that the Speaker and the Legislative Secretary attest to, the adoption hereof, and that copies be thereafter transmitted to the Honorable Elizabeth Barrett-Anderson, Attorney General of Guam, and to the Honorable Edward J.B. Calvo, I Maga'lâhen Guâhan. Thank you.

Before receiving oral testimony, Chairperson Terlaje read into the record, a letter on Chamorro Self-Determination delivered by Dr. Robert Underwood yesterday to all senators. The letter, dated March 16, 2017, addressed to Vice Speaker Therese Terlaje from Dr. Robert Underwood is attached.

Chairperson Terlaje invited those listed on the sign-in sheet to give their testimony. See attached Sign-In sheet.

The following people gave oral testimony and their testimony is attached or transcribed below:

Bob Pelkey: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Harold Cruz: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Ofing (Josephine) Jackson: Buenas. Manana si Yu'os para hamyo todû guennao hulo'. Hu tungo' ha' na Mâtso pâ'go na mes, noh?
Pat Biba Ha'ânen Nuebu para hamyo todû guennao hulo'.

Ântes di bai hu sângan hâfa bai hu sângan, fanmanohge fan ya ta cho'gue fan este i Inifresi sa' ginen i kerson-ta este yan ayu i Fanohge Chamoru. Yanggen en tingo'...

[Recitation of *INIFRESI*.]

Manana si Yu'os para hamyo mañaina-hu yan mañe'lu-hu. I na'ân-hu si Sainan Ofing Jackson yan i asaguâ-hu si Danny Jackson. Guâhu i sekretârian Nasion Chamoru ya hunggan gi Nasion Chamoru ginen i Maga'hâga si Catherine McCollum yan i Maga'lâhi si Danny Jackson, in apreba este na "Resolution." Dângkolo na saina ma'âse' sa' manhuyong hamyo ya en cheche'gue este.

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Hunggan direcho este para hita i taotao tãno'. I direcho-ta este ginen i saina-ta--our ancestries... i guelo' yan i guela'—si Nãna yan Tãta. Hagas ma gotte na estague pã'go na nisisita pã'go na para ta fanmanohge ya ta cho'gue este i bidan-ñiha este siha i taotao sanhiyong.

Hãfa na para hita ha', bula “unconstitutional”? Puet ayu i fishing rights... Public Law 29-127.

Ma sãngan ta'lo gi i A.G. "unconstitutional." Hãfa na para hita guini gi tano'-ta, bula “unconstitutional”? Taya' ãmbre iyo-ta *Constitution!* I *Constitution* i Amerikãnu este--ãhe' ti hita. Ti hita--kumahulo' si nanã-hu, yan si tata-hu, si guelo' yan si guela'... kao manngahulo' gi siyan-ñiha... gi gima'-ñiha... gi maseha amãnu para u fanmanohge ya para u ma *swear in* gi i *Organic Act*? Ti u ma cho'gue ayu i *Organic Act* para hita. Para i taotao sanhiyong—ãhe', ti para hita. Anggen un taitai ayu i *Organic Act*, atan--sen atan, sa' parehu ha' yan i *Constitution*-ñiha. Hãfa iyo-ta *rights* gi i *Constitution*? Tãya'!

Ti siña hit mambota gi delegãdu. Gi delegãdu, tãya' iyo-ta *rights*, para u kuentos gi halom. Tãya' iyo-ta *rights* ta'lo para in fambota para presidente. Hãfa ayu na *Constitution*? *Constitution* Brodie! Para siha ayu. ãhe' ti para hita i taotao tãno'. Tãya' iyo-ta *Constitution*. Iyo-ta *Constitution*: Inifresi... Fanohge Chamoru. Kontra. Maila' pã'go ya ta fanngontra.

Maila' pã'go ya ta cho'gue este. Hãfa na este na taotao si Dave Davis... hãfa gui' yan hita ni' Manchamoru? Humãlom ya ma cho'gue hãfa malago'-ñiha. Si Gatewood, ha bira gui', ya lãstima -- CHamoru—Tydingco, taotao CHalan Pãgo, parentes-hu, ha cho'gue gui'. Mãngge CHamoru gui' na hãga'? Mãngge? Mãngge? Dinanche si Harold ni' ayu i, “hãfa este i *District Court of Guam*?” Ti debi di este i *District Court of Guam* gaige guini gi i tano'-ta.

Manhãlom i protesta, u hungok gi nigapña na manhãlom, na manggaige guihi ni' manma protetesta. Manhãnao gi sanme'nan i *District Court of Guam*, manma dulalak. Yanggen gaige hu' guihi ti bai hu ma dulalak sa' un tungo' hãfa bai hu sãngan? “Tãno'-hu este. Hãyi hamyo? Kao mãtto mãgi i presidenten-miyu ya ma nã'i hamyo na tãno'? Tãya'.

Tãya' guini tãno'-miyu. Fanmambãsta manmañule' tãno' ni' ti tano'-miyu.

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Humãnao yu' hulo' un biãhi para ayu i *GCIC Building*, ya ma sangãni hu' na hu nisisita na bai hu huyong guihi sa' i tano'-ñiha. Tumohge ha' yu', "Ya hãyi hamyo? Mångge i tano'-miyu? Gaige i lot guini gi iya Guãhan. Gaige i *building* gi iya Guãhan. Anggen ilek-miyu na tãno'-miyu este, pues chule', kãtga i Guahan, yan pega guatto gi Amerika.

Hãfa na sigi ha' hamyo ilek-ña estague tãno' Guam? Chule' edda', hatsa edda' gi guma'-miyu. Oh, maseha gi halom tãno', ya un nginge'. Kao pao Amerikãnu pat pao CHamoru. Chule' i edda' ya un bira huyong sa' bula --- ya ginen i saina.

Hu sapotte, in sapotte este i *Resolution* yan este ginen i Chamorro Land Trust--tododu. Maolek sa' manmanohge ya ta cho'gue este ya ta kontra este siha na ma bibida di u ma cho'gue gi i tano'-ta sa' manggaige i saina-ta guihi pã'go na ora, pã'go no momento, ni' manmãtai... manma a'atan hit pãpa'. Manma bibira siha--sigi ha' manma sãngan na manma bibira siha gi halom atuhot, ti siãa ãmbre. Ginen i tataotao-ñiha na manggaige ha' guini na mane'ekungok. Pues na'direcho este.

Vice Speaker, saina ma'ãse' nu este. Un lakngos ya un manna'hungok ni' i taotao. Hamyo ni' Manchamoru, fanmanohge. *Enough is enough. It's time... it's time.* Ti Para hita este na pãpet. Para i famagu'on-ta, ya i famagu'on ni' manatatte. Hasso i famagu'on-miyu. Hasso i ñeta yan ñeta siha. Hasso i ñetu yan ñetu siha. Hasso hãyi manggaige gi santatte-ta.

Esta kuãnto na buñelos dãgu ta kãnno', kuãnto na buñelos mãnglo' ta kãnno'? Nã'i pã'go i famagu'on-ta , i ñetu yan i ñeta. Saina ma'ãse' ta'lo nu este yan biba CHamoru.

Vicente Garrido: Buenas. Guahu si Vicente Garrido. Saludu para hamyu toduni man senadot pago ni man presente yan eye man mapos na tiempo. Hunggan gof supputi esti na bill. Hu gof supputi. Para guahu i opinuhu ni banda, i ruling by Judge Gatewood on his pleblecite to me is terrible and insulting to the Chamorro people. It's totally a slap in the face for the Chamorro people. And it's also a sad month, for the Chamorro people. Knowing that this month is Mes Chamoru and the Chamorro is also celebration Guam history and Chamoru heritage. Matu de mafa sineksi esti. Dave Davis, and I don't care whether he is here or not. I don't care. He's listening. Dave Davis is a racist. He is a pure white man racist. He is an interloper. And if you don't know what an interloper mean? Interloper? The one that interfere in somebody's business or personal

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business [nai]. Ume entilu na bisnis na Chamoru ni put esti yun niha ni put pleblicite. Si Dave Davis ti ma colonized na taotao. Hita ni Chamoru na man colonized. Ahe ti guiya. Kon todū eyu siha i man matu magu ni put fanaga guini yan pon fan chelu i oppotunitidot guini gi islata. Ti man ma colonized enao siha. Ha tunguha si Dave Davis na taya bisnisna para halom na pon fan bota gini pleblecite. Pues para guahu Judge Gatewood, I believe is confused about this pleblecite, Chamorro only vote. That's the way I see it. That's my opinion. I am not a lawyer. And I also, Judge Gatewood says, this pleblecite is a public issue. It's not a public issue. This is not a public issue. The pleblecite for Self-Determination is a Chamorro sentiment, it's a human rights issue. Human rights issue. Hafa un na para public issue? Hita ni Chamoru man ma colonized guini gi islata. If Judge Gatewood is so hot shot about the 14th and 15th Amendment in the Constitution. How come he's isn't saying, that we are supposed to become U.S. citizens and we cannot even vote for the United States president? How come she's not saying that? But she went on and agreed to support a racist person, who come here and make Guam their home? And this is the same guy, Dave Davis, who is trying to destroy us on the Chamorro Land Trust. Lanya. I know that for a long time. I know it. I'm a member of Nacion Chamoru. I'm a former Ma'ga'la'hi of Nacion Chamoru. Also, a veteran of the enlisted Army, Infantry, Combat Veteran. I've been around. I've been around. I've been through hell. And I know what it's like. But this is another hell for me here on this island. Chamorros must stand up gachong. I heard some of the senators say, 'Oh, we're already here,'. Esta man dadanahit guini. Hunggan nai man dadanahit lo ti man hihita. Ti man hihita! Ti man hihita, umbre. Todū lai napiniti lai. Napiniti. Wow, man, when I see the headline, "Pleblicite Law Unconstitutional," taya yuta constitution. hafa na para, munggi i constitution? We don't even have a constitution. Pues ta'lu, you know, Judge Gatewood's decision, really, is a true example of what it's like to be a colonized judge. Let's face it, lai. Let's face it, and make no mistake, that Guam's government is nothing more but a puppet government. A puppet government being ruled by a foreign power, the United States federal government. And another thing that Judge Gatewood said, 'Oh, I can understand the people, they colonized, for their desire to decolonize themselves.' And we must recognize the people who are giving me pas...now. I think it should be the opposite. I think Judge Gatewood should say that the people who come to this island should respect us and recognize ourselves. Siha debri du respeta. Hafa. Lannga matu hao magi gi I tano'hu' des pues para bai, siguihamu respeti ti respeti hao? You kidding me? Lao I'm sorry, but that's the way I see it. I support in this appeal and I hope,

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Judge Gatewood, because, like I said, the decision on this plebiscite that Judge Gatewood is terrible [1:07:38] and is insulting to the Chamoru people. Si Yu'us Ma'ase.

Enrique Torres: Good morning, everyone. Good morning madam chair. Good morning the rest of the body. My name is Enrique Torres; I'm from the village of Yoña. I come here on my own, as a private citizen. Remember these slogans or the battle cries as you may call, "The British are coming." remember the "Alamo" remember "Lusitania" remember "Pearl Harbor" remember "The World Trade Center" remember "The Pentagon" and "the flight crash in Pennsylvania" Nowhere in history does anyone ever ask or ask us to remember "Guam" The occupation of Guam. The atrocities committed here. Nowhere else in the United States, when there where there's are concentration camps. Nowhere else where there are properties taken away. Also the Jews, where their were in the process of being eliminating from the face of the planet, to genocide. The Spanish tried to do that to the Chamorros and during the occupation of the Japanese. I've I have looked at the war, videos and listen to my parents. These are real human rights violations. But then again human rights were here before you asking for you to help us with our human rights. Not our privileges, this is our human right. We're asking you to help us with our human rights, not our privilege. So, the Governor, the leaders, my brothers and sisters, the sons and daughters, and referring also to my brothers and sisters in the continental United States of America, and to the rest of the world. Join us, join us with this appeal. Show us our solidarity. Don't forget we also feel that the war reparation is still injustice. In many parts of the world, when it comes to human rights of the native inhabitants they are recognized in Canada, the tribe there is called the "First Nation" we are just asking that the Chamorro people of native descent or at least the belief in the culture belief in the tradition consider themselves to be Chamorro and after the fact that they were born here, their parents who were born here, their great grandparents were born here, so the aborigines in Australia. I was in the Philippines, just getting my teeth looked at, and I was listening to the discussion, they were in Filipino tagalog language, and it was between my dentist and his colleague, the plastic surgeon, they were talking about citizenship, on the United States citizenship wow I was really wanting to get into the discussion, so I kinda asked them to clarify what they were saying well they were saying you know after the war, World War II, they were asked to decide they wanted to become American citizen, decide, wow, and their fathers were in that, that responsible citizen to decide the determination and they turned it down because they didn't

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want to be considered brown Americans and they said, I don't know but I am a brown American and I told them some of the privileges of an American citizen, not all and I hope one day that I get to be rewarded with what is due us, if we are going to be U.S. citizens, full fledged Americans, and also in that discussion, I know made that distinction we got that American lots of freedom, we got liberties, we can own homes, and all that are our human statuses, civil rights, we live in a civilized society, and if you know the Philippines, you can see there's from a third world country and maybe now it's considered closer to the equivalent to the United States, so it was then we were talking well he so all of that and there's still some issues right, "yeah we still have issues", and he stated " How old is the United States government? To look upon, and then I thought back and well they moved, they removed themselves from the British and they became self governing in 1776, so roughly two hundred and sixteen years, and he kind of laughed and the Philippine government is only seventy six years old, yes we have corruption, not to say that the United States has no corruption, yes they are some violations of human rights and all the things you can come to realize, the United States are not really a, or is all built up to be, so they still have some more time to develop, time to change, change is what we are asking for, so Guam, you are government leaders, give our people, Chamorro nation, First Nation, however you part of this second chance or move forward, rethink about, the native inhabitants, rethink what it is qualify for plebiscite, I am not an expert, but give us a choice, give us a dialog, rethink about it, and we want to be recognized in this global community, as self governing, madam chair I support this bill, this resolution, and you, in front of us our leaders, almost have eight hundred twenty five years, of experience, we don't look at you as young, Chamorros, or leaders or people who want to carry our fight forward, you are the ones who are here before the rest of us to bring us to this quest, I applaud you for taking this opportunity to move our request forward, look amongst yourselves, look amongst deep in your hearts, deep within your ability to research, the ability to expert consultation throughout not just Guam, at the rest of the world, United Nations, do your due diligence for us. So in closing I say to Matthew, Patrick, and Nathan, my sons, your dad asks, would you make your choice for your life decisions but remember my legacy, as I remember my legacies of my ancestors, I supported our quest, I support this bill, resolution 52-34, towards self determination, for as long as long as it takes, thank you very much.

Robert LG Benavente: Håfa adai, Hamyo Todos guenno hulo! Guåhu si Robert

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Leon Guerrero Benavente—che'lon defunto Maga'lâhi si Ed Benavente. You know, last night ha' I went to the Chamorro Land Trust just to figure this thing out—figure out what's going on with the Chamorro Land Trust. Even my brother was making... on behalf of the Chamorro Land Trust. That was a while ago. And I was just trying to look where he left off so I could carry on what was left. The problem lies with our leaders, really. If we had, for example when we implemented the Chamorro Land Trust in the beginning—1995—1995, right? Our leaders should have looked for something that won't harm the Chamorro Land Trust in the beginning and protected instead of squabbling. Every administration, directors, changing their own policies and so forth. I'm glad there's a lot of young senators out there who have bright minds opened, hearts, and so forth. Lanña' lai, I'm fed up. For this kind of issues, Ga'chong. I just came from the woodwork—lanña' ga'chong. And this should have been done yesterday to sustain the Chamorro Land Trust for our future generations to come which is not me—is your children—our children... like my brother always said, "I tano'-ta, I famagu'on-ta, karetâ-ta, asaguâ-ta, gumã'-ta..." it is us. It is only us, that we could fix this problem. If we stand together like—man, I hear everybody else here talking about their life history. Thank God you guys listen, you know? But let's proceed forward and do something with it. For example, what are we going to face Judge Gatewood? On my first example, I will take an issue from the United States itself. The Indian reservation, is that segregation? Hawai'ian Trust Act is what—*racist*? How about Chamorro Land Trust now which is a territory? As leaders here—thank God I didn't win for senator. I will fight this through, and I will walk out to any Congress or Washington if they don't hear us. My goodness, I am 64-years-old... great grandfather esta! What are we waiting for? Our foundation is falling like it was a paper rag down there. Lâstima latte! My goodness! Ai, Ga'chong. Let's take those âcho' atupat and start throwing it back. There are 15 of you guys, apparently. We have our leaders here. We have our lawyers. Our judges—local judges that has been—manma na'fanmamâhlao—shamed—from the District Court. Why didn't the District Court fight that 22 years ago? Why? They just waited for Dave Davis? While those things were happening from 1995, they should have protected the Chamorro Land Trust entity. Take it out from the government. I mentioned that to—even former Senator Ted Nelson when we had that hearing. We should take away the Chamorro Land Trust – away from the entity of the government so the government won't be liable for lawsuit. Hâfa lai? Form a tribunal council in there. My goodness, Ga'chong, wake up and smell the coffee. I'm a veteran. I don't need this (gestures to the microphone). I'm a veteran, and I served my time

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in the military, but it's insulting for me to hear it again and again, Ga'chong. I'm too old for this crap, and I don't care what race or color, you probably should understand where we are coming from as Chamorros. If we go to your country, we won't have that opportunity like Guam. "Guam is a U.S. Territory—everybody could come in." "You're not invited, Buddy..." You came here for a reason—not to kill, not to murder.

Senator Michael San Nicolas: Señor, can we just make sure you're speaking into the microphone? We need to capture this for the recording and also for the people who are watching, because what you're saying is very, very important.

Robert LG Benavente: Oh, I'm sorry. Next time put a cushion down there. Anyway, I'm being realistic. I am for sure in my heart, and to all these people that are here today. Even my cousin, si Bob Pelkey. Everybody here—I practically know everybody. From si Mike, from Victoria... all 25 years ago... this is all the hearts that we have. We got the hearts here. We got the fuel. By numbers? We don't need to—take the census di fino' si former Senator... when I was reading the messenger... we'll take the Census from the 1900s of the Chamorro natives and utilize that. Dalai, Ga'chong, everybody died from that Census? I don't think so. Use that for your arms. Use the Indian Reservation. Use the Hawai'ian Trust Act—use that. Let's see what Francis Gatewood would say. Racist? Discrimination? I would love to say something nice, but forget it. I don't want to come back again and again, but Senator San Nicolas, I know you're very vocal with so many things. But as far as—and I hope that everybody does in the future—because I will still vote for you—I don't care what party you're from, but as long as you do your job, do it right. Right now, it's from one administration to the other, to the other senators—they will do this. They will do this, every two years. They will do this for the poor—nothing's happening. Nothing's happening, but crisis on our hand today. I'll just leave it at that, Senator. And I thank God that everybody is here to testify today on behalf of the Chamorro Land Trust and also Resolutions 51 and 52—I'm very supportive of that, because it goes in the same bowl. This is where we came from, and so we have to stand up for who we are. Si Yu'os ma'ase', lai.

Jamela Santos: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Attorney Michael Phillips: Buenas dias Madam Chair and members of the

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committee and this legislature. I think most of what could be said, has been said. I want to make sure; I'm clear for the record that I am in support of both resolutions and the causes behind them. I think if we start with an agreement, there can be no legitimate authority without the consent of the governed. Then the equation is simple. It really comes up to that hasn't been done yet. And so, without the consent of the government, anywhere, this is not unique to the Chamoru people. You cannot have legitimate authority. Now, that does not mean that you cannot have an opinion and we received an opinion recently by someone that currently enjoys the power to render opinions. But of course, it's confined to a system and this is not new for our people. It wasn't new in 1898, when there was a pledge that the native inhabitants would have their futures determined by the Congress. That hasn't been done. It's the same definition of Native Inhabitants, I can assure you. Nothing was done in 1936 & '37 when their pleas and there was a rejection from the Native Inhabitants and many years in between. Even in 1949, when the, basically the military governor interfered with [the] legitimate process, that Speaker Won Pat and many assemblymen and senators had the courage to commence. It took a lot of courage. When the military governor interfered, he had the authority to do that, but he did not have the legitimate authority. And so, obviously, history changed. But one thing our people didn't do in 1898, and the early 1900s, 1917, [19]36, 1949, was they didn't run and I think in part because of these issues, they were extremely educated, on a day to day basis of what was going on. They didn't run, but they also understood that certain people and certain positions of power were entitled to their opinion, but it didn't legitimize it. And that will always be the case. The example given, I think are very, very simple, but, they're not complete. You could go on, and on, and on, and probably provide for the record of a thousands of examples like, 'Wait, how come over here its okay. Over here it's not okay? And so, Madam Chair's one of the attorney that argued the Chamorro Land Trust Act, the implementation. If we had not won that day that would not mean that it's not correct. It's would just mean you did not win that day. If you ask me back then, did I expect to win that case? I did expect to win that case. If you ask me in the current situation that Guam faces before the District Court, would I have expected to win or an attorney, the case that we are talking about. The answer is no. But it doesn't change right and wrong. It can't change right or wrong, because it's not based on an interpretation that a court system is not legitimate. We don't even enjoy the same judge, so to speak, that States enjoy. But even if we did, it still would not be legitimate and therefore you really have no authority. Because you don't have the consent of the government. The

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blessing that comes with the consent is it benefits everybody. I take very seriously, what Senator San Nicolas's comments. Because I read those in the case, honestly whether it's just as someone from Guam or an attorney, it bothered me, as kind of different. I'll just say it was different. [01:37:46] And, it's not a secret that the Chamorro Land Trust Act is supposed to benefit the Chamorro people on Guam. It's not a secret. And it's not a secret that the Chamorro Self-Determination is for the Chamorro people. Where I think the misconception is very similar to Affirmative Action in the past, especially when it was mostly needed, Civil Rights and many other things. Treaties with Native Americans tribe [01:38:14] that did and currently do reside in America is it's for everybody. Everybody benefits. When you have a displaced Native Inhabitant group, as a people, as we do on Guam; when you have a unique people being extinguished and that is prevented because you're preserving a homeland for them, everybody wins. Everybody wins. But of course, that's policy. And someone would be right in saying, 'You know Mike that is your opinion.' It is. But I'll tell you where I don't believe there's a debate and that is until there's the consent to the governed, there can be no legitimate authority. And we need legitimate authority. To the extent that people step forward and say, 'I agree, I'll put my signature there.' Well, we have the Treaty in 1898 when that was promised. We have the U.N. Charter where that was promised. And I think, like myself, if you signed a document and you're pledging that you can be held to this, it's a commitment, then I should be able to hold you to it. All we're doing is holding, in this case, the United States to commitments that they made. But even if they didn't make these commitments, everything you heard here today would still be correct. Even without it. But what adds, as they say sometimes, fuel to the fire, is [are] these commitments have been made over and over again. What are you going to do, go to court and find the U.N. Charter unconstitutional? You can't. They're at the same level. Even dealing within that system, you're going to find that inconsistencies. And so, you've got to ask yourself, 'What are we going to do?' Well, I'm going to tell you, the adversity that we face today, ladies and gentlemen, is nothing, compared to what the Chamorros and anybody on Guam, faced over the last 100 years. Nothing. It's nothing. That doesn't mean your responsibility is not as immense, maybe even more, because you are at a pivotal point in history today. But, at the same time, just think back at the consequences that would befall a Chamorro leader or any public servant back then when those decisions were made. I can assure you, that even though they're not well covered, they're not well documented, with Speaker Won Pat and those that supported his acts, not very much is written of them. But they

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were courageous. There were consequences. I can tell you that there were consequences for B. J. Bordallo and F. B. Leon Guerrero going to Congress and saying what needed to be said. Those were not covered very well. And it's obvious, because those that write history are usually the people that are in control. And so, today and tomorrow, you have to decide. Well, if, for example, these two (2) identical programs: the right to self-determination and the Chamorro Land Trust Act. If they came from the Congress [01:41:09] of the United States the chances of any challenge succeeding in the courts, very minimal. It's almost certain that they would pass muster even within the federal system. But it's the same program. It doesn't make it wrong. Because of the fact, the people of Guam decided on their own. That they're going to get things going and they're going to have the Chamorros exercise self-determination. It doesn't make it wrong that the Chamorro people and everybody on Guam decided that we're going to have a Chamorro Land Trust Act. It's not constitutional in the sense like [01:41:14] with Hawaii, where it came from the Congress and it was negotiated, I'm assuming, and it is part of their constitution. But it's the same thing. And so, you would ask yourself, 'Why would want to run from a fight over a program, that if you do it, it's called constitutional. If I do it, it's called unconstitutional. Words are the same, everything's the same. And if I can, I would like to end in one thought, because it's something that surprised me, but it's stuck me over these many, many years. I think it was 1992 or 1994. I was at the Democratic National Convention. And I was told to link up with a congressman name Mike Honda. I had no idea who he was. And it ended up he was he was pretty much a living legend. [And] he's pretty much one of the prime individuals responsible for the compensation for Japanese-Americans that were wrongfully interred. But what's not written very often is the fact that as a Japanese-American, he refused to support a bill of reparations that didn't contain language saying, 'Not one Japanese-American was ever found to be a traitor.' Not one. So, he was asked, 'Why would you stall a bill that's going to give everything else that he's wanted, just because he wanted just that one phrase.' He said, 'Because 50 to 100 years from now, there's going to be a little Japanese-American girl in a classroom and someone's going to say, 'You're people were traitors.' And if we don't empower her to say, 'That's not true.' And as part of the law, we make it very clear, that not one Japanese-American was ever found to be a traitor. We leave that little girl vulnerable. And that's where we are today. We've heard the stories of our selling their land and all that. It's comical. But in 50 to 100 years, it may not be. Because again, the person who writes history is the person in charge. And they actually are trying to convince our

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people that after the war we wanted to sell our land and we gave it willingly and all that. It's fairy tales. Fairy tales. But as the generations go, we don't empower our people with that written history to be clear. That's not what happened. It seems to me you're a little bit embarrassed of history and you should be. But the point is, we all know that, but those that come after us won't know. The worst thing we could do is when someone writes a letter. And really ladies and gentlemen, it's some person in the department. We do it here and they do it there. They've done it for years and both sides. We've had the United States federal government sign off on the Articles that everybody on Guam voted for in the Commonwealth Draft Act. Everybody that was entitled to vote was allowed to vote for the Chamorro Land Trust Act. Was allowed to vote for Chamorro Self-Determination, and the majority did. Now, is that perfect legitimacy and the consent of the governed? Well, it's a lot further than one person in court and it'll take you a lot further than one bureaucrat in D.C. I would suggest. But on top of that, it was reviewed by Congress and the Task Force that was put together by the Congress and the Executive Branch at one point signed off on those Articles. So, again, is that necessary, relevant in a court of law? I don't know, that's a different form. But when we're discussing, you know, the good and the bad here, I think it merits the discussion, 'Wait a minute, at one point you guys signed off these programs.' And for more years that you opposed it, you have supported it. And that Chamorro Land Trust Act looks awfully identical to the Hawaiian Host Commission Act. And how does that survived? People say, it's Rights Kayatano. And I promise to end with this. *Rice v Cayetano* had very little to do with the actual act as much as it did over governance. And they basically said it, 'If you hold an election in our system, I don't see why everybody can't, you know, have a part in governing.' That didn't destroy the act. It just talked about the governance. And so, those are two (2) separate things. Again, the heart of the challenge of the Chamorro Land Trust Act is not governance, it's the act itself. It's the recognition that there are certain people that will benefit. I believe everybody benefits, but of course, there is a designation of a group of people that Native Inhabitants that have been referred to in different ways and defined in different ways over the years, where we are talking about the same group of people. Again, whether it's in their system or our system and whether certain people currently have power render certain decisions doesn't determine the legitimacy of that and it doesn't change whether it's right or wrong. But, your decision today, really, like Mike Hondas' refusal to accept reparations for Japanese-Americans without that specific language saying not a single Japanese-American was ever found to be a traitor. You are able to make that decision

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today. Because you'll ensure that your grandchildren and great grandchildren and all of our descendants are never told that, 'Oh no, no you guys agreed that there was something wrong here.' And somehow unconstitutional is equated with immoral or wrong or without legitimacy and in fact in many cases it's not. I humbly ask you take your responsibility very seriously, as I know you do. And I appreciate all of you that are here today. But I just want to make sure that you don't think that your acts even if it results in another court loss or somehow not as important as those that were made by Vice Speaker Won Pat and the many, many Guam Leaders that came before that Congress and with that I thank you so much for your time. Si Yu'us Ma'ase.

Chairperson Terlaje: Thank you Attorney Phillips and I'd like to thank you for your work for getting the Chamorro Land Trust implemented in 1995. Si Yu'us Ma'ase.

Chairperson Terlaje: I've been putting off the questions from the panel.. Attorney Phillips, if you don't mind, could we ask you a couple of questions?

Senator Michael San Nicolas: Thank you Madam Chair. Hi Mike.

Attorney Michael Phillips: Hi Senator.

Senator Michael San Nicolas: I'm trying to see, in my mind, how everything is going to unfold based on what you shared for example. And you testified that "if you were asked if you thought we would win the case, you said the answer is no".

Attorney Michael Phillips: Yeah I don't think so.

Senator Michael San Nicolas: How about with the appeal?

Attorney Michael Phillips: Of course Senator I qualify that I start and hopefully end with the idea that has nothing to do with whether or not we should try. Because the attempt and going on record as not agreeing, I think at times, maybe even this time, has more consequence. It'll have more consequences when we end up before Congress one day. Likely, I mean there's no guarantee of anything but that's where we were before and can you imagine someone like yourself negotiating on behalf of the people of Guam but yet your people, maybe even

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yourself, before had consented and said you know you're right. How does a congressman from a city or a county in Washington State look at that and say you're asking for something today that you agreed with 30 years earlier, 20 years earlier was wrong. And then you have to say well I wasn't really wrong, it was unconstitutional.

Senator Michael San Nicolas: I'm just trying to, if you can bear with, how the sequence will unfold. You felt we would lose in the District Court, if we appeal and we lose, and we go to the Supreme Court and we lose, what happens after that?

Attorney Michael Phillips: Well there's two things: there's one thing that doesn't happen and that is there's never a record of the people of Guam agreeing with a certain act because of the fact that we were going to lose. That's number one but number two I think even during that there's no reason to wait but the avenue that I've always advocated is through Congress. But I will again qualify that, just like the Chamorro Land Trust Act, the fact that Congress gives or doesn't give does not mean that it's wrong. I, along with the chairperson and now judge Mike Bordallo, argued to have it implemented and I knew at that time the opposing side, now attorney general Liz Barrett-Anderson, representing the Governor and they were doing what they felt they had to do. That was one of their arguments but wait only Congress can pass programs such as affirmative action and things like that. The individual state, or in this case territory, doesn't have the authority to do it. We prevailed but at the same time if we had not, and the judge had ruled that yes Congress can do this but you can't, that wouldn't determine for anybody that the program or the act is wrong or that you shouldn't push for it, it just means that the system is there without the consent of the government, you're required to do something different. But it doesn't change the program at all. What would have changed though is if our people never implemented the act authored in 74 and was patterned after the Hawaiian Homes Commission act, it was signed into law I believe in January of 75. If our people had never done that, we would never be talking about the Chamorro Land Trust Act today.

Senator Michael San Nicolas: Actually, I wanted to clearly bifurcate the plebiscite ruling with the land trust ruling. Because I agree with you. I think that there is a lot of rational to protect the land trust. I, and I also agree with you, think that the rational to defend the plebiscite vote is very tenuous. And so just

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approaching strictly from the plebiscite question, if we lose the appeal and we lose Supreme Court, can you give me a clear example of what the next course of action would be after that? Because assuming that that happens, what do we do?

Attorney Michael Phillips: I think that I wouldn't call it, with all due respect Senator, "next" because I think the efforts can be made simultaneously. But from everything that I've seen in my lifetime, and everything that I've read, under that system the more likely path to success is through Congress. But it's not for the faint of heart. I mean it can go on and on and on and they will continue to ask you to change your question. They don't like what you're asking, they won't tell you no, in my opinion, but they will say why don't you ask me a different question. And they will wear you down; or they'll at least try to. But under that system, when it comes from Congress, we've all seen with regards to the territories that Congress can do almost anything that it wants. And often times that's for bad and sometimes it's for good. Obviously this is a time that they are empowered by the Constitution, by the treaties to make that determination. And they have pledged that the native inhabitants of Guam will exercise self-determination. And so at that level and with that body Congress, not the executive branch but Congress, it's almost like sovereign immunity with the Guam Legislature. That's yours. It's nothing that people can argue about all day long but that's something that you have the exclusive right to determine or waive; nobody else can. So with regard to self-determination, under that system, it doesn't mean that its right, it just means that Congress is empowered to make that happen. In fact Congress and the United States have pledged to make that happen. So when you come from that source, I believe that chances are much higher than going through the District Court route. And the reverse holds true that the chances of failing, it's not a question that we're bringing or someone else is bringing to the federal court so it's not like we're asking them to uphold this. Or someone saying can you strike this down. It's a very difficult path because under the current rules as set by Congress that's not happening. So until such time that it happens, under that system it's weaker. That doesn't mean as I said, I need to keep saying it, that I advocate not pursuing it because that would have drastic ramifications; very serious ramifications upon your efforts to Congress which could be a day later, or could be at the same time or it could be ten years later. It will have very serious ramifications.

Senator Michael San Nicolas: For not appealing?

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Attorney Michael Phillips: Absolutely. Giving in to anything that appears to be consenting will have very serious consequences. In one of the cases I represented with a Chamorro family, they were occupying their ancestral land in Mogfog, Dededo. Senator Angel Santos of one of those individuals and on two separate cases. And what they perceived to be a big plus on their side, the United States federal government, was that they had a check that was apparently signed by one family member and we might find that funny, oh a check that one family member they allege endorsed, and they're waving it. And we look at them like "are you serious?" They felt that that somehow legitimized what they had done and that they were there to show the court that under this system, they gave in. We gave them some money in return. And again similarly here it's not about money, it's about the leaders of Guam deciding to either consent to that. And when you consent, it's not like in criminal defense you sometimes take a plea called "no contest" I'm not really saying you're right, I'm just saying you have an overwhelming amount of evidence. This is not a no contest plea, this is very different. I mean it's obviously something of a consent decree like with the department of corrections. Most lay people interpret it as we agreed that we needed to fix some things up there; we agree with that. Now I don't know whether that's true or not but from a lay person stand point, that's the way that everybody understandably interprets the consent decree that we weren't going to fight that one because we agree you're right there. Whether that's right or wrong, whether there was some other tactical purpose of doing it. If your intent was to fight it at a later time or the Ordot dump, or any of these other issues, I believe you chose the wrong path because at that point, everybody just shakes their head.

Senator Michael San Nicolas: So then I'm really trying to get a handle on how this would then given what you're sharing. So we appeal, we lose. We go to the Supreme Court, we lose. And I'm not saying we're going to lose but if that should happen, then we go to Congress. And so between all of that, all that time would've passed and then were going to go to Congress. Now, some of my colleagues are saying no and I'm sure that the statement is going to be we can do it at the same time...

Attorney Michael Phillips: ...Or not do it.

Senator Michael San Nicolas: ...But then the question becomes wouldn't Congress just say "well we want to wait for the courts to rule." And so as we're

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waiting for the court's decision, and all this time is passing, we eventually get to the end of the road, and assuming worst case scenario we lose all the cases. Couldn't Congress come back and say "we're not going to do it because the courts already ruled no." And then if that happens, and Congress says we're not going to do this at all, because you appealed and you appealed and the court already ruled no, then what do we do?

Attorney Michael Phillips: Senator, you argued the Chamorro Land Trust Act, the opposition, I think artfully and correctly pointed out, it was their best argument, that the people of Guam themselves cannot create the Chamorro Land Trust Act under the Constitution. It was supposed to come from the federal government.

Senator Michael San Nicolas: I want to bifurcate the land trust question with the plebiscite question because what I'm trying to get to...

Attorney Michael Phillips: If I could explain Senator, the reason I mention that is because that's nowhere in the current federal court opinion; and in my humble opinion, it should've been there. The idea that you can't, in the current system, decide on your own that you're going to exercise self-determination. It goes against the grain of most common sense interpretations of self-determination. But that is under the system the way it works and so, very similar to the Chamorro Land Trust Act, they're both legitimate and seen from their system, if it comes from their Congress. And so I understand can we bifurcate the two but what's missing in the current court analysis is that, kind of like a P.S. if this came from the Congress, it would likely have a very different result. And that's what we can't give up on because as long as we point that out and we maintain that and we hold them to an obligation that they've made, not just us but to the world that this would happen. Then it would be very difficult for Congress in the long run not to do that. But I would also like to add that if there's any concern appealing the case would delay things, nothing will proceed that fast in Congress anyway. I think historically we've seen that. I appreciate the concern but I don't think that's anything you need to worry about; delaying the process because Congress moves very, very slow anyway.

Senator Michael San Nicolas: My last question, Madam Chair, thank you because I'm really trying to wrap my head around what the right decision is going to be. If we didn't appeal, if we just said you know what? Exactly what

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you said, until there is consent of the governed, there can be no legitimate authority. We're not recognizing the legitimate authority on this ruling of this Davis case. We're going straight to you Congress because they're apparently saying change it. So we're not going to appeal this, we're just coming to you. Couldn't we do that because I don't think they can turn around and say don't come to us and appeal it. I think they would need to, at that point, adjudicate from their perspective because their courts already ruled. And an act of Congress cannot be conditional upon the people appealing. So couldn't we just go straight to Congress at this point since we are already dissatisfied? And the reason I asked that is because if we appeal and go straight to Congress, then they can point to us and say "oh we're going to wait for that ruling". And what I'm worried about is appeal, appeal years and years and years. Why don't we just go straight? Why don't we just go straight and say "we're not going to recognize that ruling as legitimate, you guys need to get your act together and give us some kind of congressional relief. And then we get to the immediacy of the question rather than allowing them to point to court cases and drawing us out. So couldn't we just do that instead? And that's my only concern about this appeal. I'm worried that it's going to give them the rational and resources to draw this out and say, 'Oh no you guys are appealing your case, wait for your adjudication'. And then the courts can take almost as long as they want. This Davis case took six years. The Supreme Court could refuse to hear this case entirely. So perhaps we should go straight to the Congress and if you could chime in on that.

Chairperson Terlaje: I'd like to chime in on that also Senator. I think the people of Guam should've been going to Congress all these years. I think that's what all of our leaders have always said, that we have many paths to self-determination and we use all of them as best we can. Congress has always been the path. It's the path we were on in our Commonwealth quest. We were there regularly and, yes, I agree that we should be there, should've been there and we will be there.

Senator Michael San Nicolas: My only concern Madam Chair is that I have seen us bely legislative action because there's a pending court case. Like I remember us not acting on certain gambling initiatives because we were waiting for the gambling case to be resolved. And so if we initiate cases that gives Congress the rational to not act because they're waiting for the case to be resolved, then are we potentially answering ourselves by appealing when instead we should be saying you know what you're wrong and we're going straight to Congress to get relief

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from you.

Attorney Michael Phillips: Senator, what will be before Congress in the charge place is that the Congress of the United States shall determine the political status of the native inhabitants of Guam. That's their charge. And our presentation to them, while it passed historically, has always included a remedy for the fact that there is a illegitimate government until such time you have the consent of the governed therefore one of the articles of self-determination is one literally of many. So the push there is really comprehensive; it's everything. Like I said even the Chamorro Land Trust Act was mentioned in the draft Commonwealth Act; Chamorro self-determination, control of immigration. Many different articles and many different causes and issues. So this would just be one. I don't think that, of course you never know what one individual Congressman is going to say but I don't think overall it would be distracting. Although I do believe it would be if consent it. It really has significance when you consent and like I said going back to that story, whether it's true or not, one check, one member of a family having endorsed it was used to argue that somehow the land wasn't taken.

Senator Fernando Esteves interjected asking Senator San Nicolas if there were any further inquiries for Attorney Michael Phillips, and if so, he should schedule a meeting at a later date due to time constraints. Both Senator San Nicolas and Attorney Phillips agreed.

Senator Carmen Kasperbauer: Thank you senators, please forgive me if I don't mention each individual names, so we can go faster, but honorable senators thank you for having this and Senator Terlaje for spearheading these resolutions, and for all of you to be here, to hear us. Before I go on, wanted to add a little of humor with your interaction with Mike Phillips, I told him just tell them to just rage war with them, and we'll use machete for our weapons, because they seem to always have the upper hand. Anyway, I'm Carmen Artero Kasperbauer, I'm here to support both resolutions, Resolution 51 and Resolution 52, namely the Davis case and the dispute on the Chamorro Land Trust. My stand on both issues is that the Federal Government has discriminated the indigenous people of Guam and their descendants since the beginning of their take-over our island as a spoil of their war against Spain in 1898. We were made a colony of America and we are still a colony, nevermind that Congress passed the law making the Chamorros of Guam U.S. citizens. It was a deceitful gift of the U.S. federal

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government. They had to hastily introduce that Bill and passed it without a public hearing with the people of Guam but the people of Guam did not know, that the bill was in the making, the bill was passed, until one day, as a child we were corralled in the school court, and they raised the American flag, and they told us to pledge the allegiance, because you are American, and I got mad, and I said NO, I'm Chamorro, and they said NO, you are American, I said I don't care, I am still Chamorro, I'm Chamorro. But for them to do that, I found out that they hastily introduced that bill, and passed it without public hearing, the natives of Guam, just to legitimize their force-taking of Chamorro lands before 1950. They took Upi from the Artero family before 1950, and gave, they forced the family to 1/8 of a penny of a square meter. They did not pay for the Ifil trees and you know Upi is not was not jungle, it was a forest, of Ifil trees, and Arteros own the land, and it takes about five to six men to stretch hands and that is how it was used to measure the Ifil trees. And they were cutting them down, and dragging by bull cart to Tagua. Oh by the way, Upi is Anderson Air Force base, and they are dragging it down to Tagua and of course Tagua is NCS now, and that was where the Artero's saw mill was, the only commercial saw mill on the island, and so the Ifil lumber were being cut there and the Artero's were the providers of the lumber, Ifil lumber to all the churches and all the homes on Guam, there are others but you know, the smaller scale. But the Artero's had the saw mill and the Ifil forest out there. The military forced my grandfather's family to take the money or else they were going to deport my grandpa to Spain because he was not a U.S. citizen, he was married to my grandmother, before 1898. And during that treating, my grandfather had a right to be a citizen of the island, but yet he didn't know, and the family didn't know, and they were scared, that they will deport our grandfather, my grandfather, so they accepted it reluctantly and we all cried, because let me tell you, all of you Chamorros here, hang onto your land, you know what my father said when I was a little girl during the war, he looked at Tagua which is NCS now, and he said "Katmen atanã esti na tano. Tanota Tago esti" I'll translate for those who did not understand, "Carmen, look at this land, this is my father's land." And he said, "Le tanota tahu, ti tanoña. Tano'hu'." But my father's land is not his father's land it is my land, then he looked at me and said "Le tanota tahu, ti tanomu. Tano'hu'." but my land is not my land it is your land, "Pues adahi I tano pat famago'un" then protect your land for the children "I hagu mamalagu" the children are the future. But what do we do us Chamorro, we want money, we want to have beautiful houses, so we sell our land, and many of our own relatives are becoming homeless. We have to stop that, and no federal government, and no other government should take our

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rights to our own lands and to provide homes to our own people, and we have to like I said if we have to wage war we will take our machete and war with the federal government because showcase to the whole world we are made a colony and we are still a colony, I don't care what you say, we are still a colony, and they are talking about discrimination, we are still being discriminated, I introduced the law that we should vote for president and we do, but they never honored it, so they only care for us because of what they want from us, we should go to Sumay, and wage war there and take back the land and give back to the people of Sumay, and so when Davis says and any federal courts says discrimination they are the biggest bigots they are the biggest discriminators, and taking advantage of little people, and the whole world should know that. And so this is the part of my testimony, but we must continue the fight, and not let it rest. We are kind and generous; Chamorros are always kind and generous. We allowed a lot of people to be here and we share with them but every country has their own rights to their identity, to their indigenesness. When you go to Japan you respect and adhere to the Japanese way of life and when you go to the Philippines you do the same thing, when you go to China or to Europe. Why should we lose ours? You young people I'm glad you are here, please fight hard, all of you that are here, I am eighty-one, I'm at the end of the battle, but you are just emerging please continue to fight for our rights, because you need it not only for yourselves but for your children, your grandchildren, and your great grandchildren. Thank you and God Bless You.

John Raymond Aguon: Æhe ya bai to'gue, Guåhu si John Raymond Naputi Aguon, taotao Talofoto. Æntes di hu hãnao magi guini ilek-ña i subrinã-hu, para un hãnao hao taiguenao. Mumuda ha sa para un testigu, ti mâtto guini put banida, mâtto guini put i sinentete-ku. Guaha lahi-hu hagã-ña, sinko años. Eyi gi na gaige hu guini. Mâtto guini put supotte este na opinion na pao ma kontra, Siñot Miguet San Nicolas kumekentos hamyu yan si Attorney Bordallo, Phillips Bordallo. Noh taimano mumuyi i aka'gue para i agapa, mumuyi sa' nu tumogi hu gi alacha, hu hãtsa kannai-hu ya ilek-hu, "Hãfa ta'lu malago-mu?" Un chu'le esta i tano-hu, un chu'le i areklamentun i lina'la i familiãk-ku, lao an pun ke' chu'le i spiritu-hu , bai mãtai pãpa bai mumuyi hao, ya bai kontra hao, sa' taotao hao, yan taotao yu'. Eya'gi hu mumumuyi i patgon i famagu'on-hu. Guaha bai nã'i hamyu hemplo, yan fan makmãta guenao hulu. Gumã-hu tres na kuãto, i familiã-ku ma hãtsa, mâtto hao i taotao sanhiyong ya un hãtme gumã-hu, i tano islan Guãhan. Put hemplo un sangãni-hit na eyu' na kuãto i yo'mu, pues ante di un huyong ilek-mu, estagui areklamento ngai'an pun maigo, ngai'an na pun

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boka ya' guáhu bai apási i kelet. Tâya guini racist, tâya guini diskriminashon este peblisite, para ma nâ'i chansa i taotao i tano ni hagas ni man ma dineha. Pao ma sângan hâfa mala'go niha. Hu ekongok gi K-57 si Andrea Pelicani si Tom an u'yu, hunggan U.S. citizen, I have the right to vote, hunggan. Lao hâfa na U.S. citizen hu, ya I don't have the right to vote U.S. Senate, U.S. Congress, and U.S. President that makes the law that affects me. Hâfa na ti unconstitutional eyu'? An humâlom hao gi gumâ-hu un kombida otro taotao ni ti Chamoru, pues ilek-hu mãnao hao guatu sa hâgu i fedirâlis, yo'ku landlord sa' ilek-mu na yo'mu I gumâ-hu un demânda, un arekla hit, eyu' na fafaisen en para un dâkdak gi potan-hu yan hey, kao siña guaha dididi hu sangâni hao? Eyu ha ma gâgagao nu este i Chamoru only vote. Pao hânao ya pun dakdak gi pettan kongresu ya sangâni kao siña guaha un sangâni hao? Eyu ha' kumekelek-ña, ahe ti kumekelek-ña na pao un arekla gubetnon Guam, ya todú I tagâlu, rasânu, an masea hâyi gaige guini, un ma fa dudulak sa racist. I familiâ-ku man asagua yan Mexicano, bakuku, âpaka, ah i hagâ-hu pao asagua yan Canadian, ti racist yu', sa en ma racist i familiâ-ku ti un akseptá enao siha na taotaogues. Lao en akseptá, eyu ha yu kumekelek-ña, ahe ti lelek-ña na ti debi ni un fan bota sa ti Chamoru hao, eyu' ha yu kumekelek-ña en pao nâ'i i familiâ-ku chansa gi gumâ-hu. Kao siña hu kuentusi hao pues anai hu baba i petta ya hu kuentusi hao, ilek-mu hunggan hu hungok hao lao hânao sa eyi man gaige I otro na taotaogues ni sumâsaga gumâ-mu yan fan akuentusi pues eyu na hu bira-hu tâtte ya "ok" todú man gaige gi islan Guam ya man U.S. citizens ta bota sa esta'gue pun tinilaikan gubetno, eyu ha i infotmashon, tâya este na botu kumekelek-ña na lai, lao meggai lai ma fa'titinas ya tâya siña hâfa ta sângan, tâya siña hâfa hu sângan, magahit yanggen dinanche' eyi i palao'an guini na tagâla, gumâ-ña Guam, lao ti sângan na ti tano-ña, gumâ-ña. Ya-ña i taotao, ya-ña i trongko, ya-ña tasi, lao ha sângan i minagâhit, tâya direcho-ku sa bisita yu' guini. Pâgo sangâni i Chamoru hâfa pa ma cho'gue i lina'la ñiha, ya ha sângan ha, na eh i man a'tungo-hu ni man tagâlu malago hamyo para ta fan bota, nihi ta hânao tâtte pa tano-ta, ti debi ni ta ma bota sa' ti tano-ta este, bisita hit. Mumuyi an man ma pedi hit pâgo, mumuyi ta fan pedi agupa, mumuyi ya sigi ha ta mumuyi para i famagu'on-ta ni man mamaila. Munga mumuyi sa esta lai. Taotao tumugi eyi lai, taotao siña mu' na' suha. Ya ti esti ni man pon nâ'i hamyo infotmashon, mongge si Madeline Bordallo? Tâya hu hungok na gaige gi kongresu, na eh amigo, otro na kongresu, maila ya un na ta fan asisti esti. Sa' ahe' ti keke pu'no i Chamoru Guam, esta ha en pinu', en keke spiha i Chamoru ni man gaige Guam taimanu ni bei fan lâ'la ni famagu'on mãmi? Eyu ha hu hungok put si Madelline i put i pay raise, ai ga'chong... dosse años ya pay raise. Maila fan sa' i sinentete-ku pâgo kocha hu

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måtai agupa, magof yu' sa hu mumuyi i patgon lahi-hu, sa angen dumangkalo' nai ya gaige yu' gi langhet, sa' hu tungo ha na bai hãnao para i langhet, munga' humãnao sasalãguan, siempre ilek-ña hagã-ña hãfa si tãta bidã-ña na taiguini or hãfa si tãta ha' cho'gue ya tai guini. Siña ma oppe' si tatã-mu ha so'ta karabao gi huyong, sinesemnak po hãlom ya pun testigo guini i benbendan i lai, i benbendan i kongresu, put hãgu, para lina'lã-mu. Mumuyi este an ti taiguenao pãgo, ta mumuyi agupa, esta ki ta' gãna sa anggen ta cho'gue este para hanao para i kongresu, hu komprende hãfa ilelek-mu Siñot Miguët eya'gue lökkue lelek-ña si Siñot Miguët guini, dos Miguët. i anggen ti un cho'gue pãgo nai ma aksepta hãfa malago-niha ya mumuyi, ya siha hu aksepta i hãfa malago-ta. Dispensa yu anggen dumisitentü, lao en sãsangan i piniti-hu, sa esta cha di mas ni para ta fan ma ga'ga' gi mãs mismu gumã-ta, umbis i karabao i ga'ga' tãya ni en fan kuentusi hu lao hu asisti ya hu nã'i hãnom, tãya gumimen ha' setbe hu dãngkalo na Si Yu'os Ma'ãse, pues hita ni taotao, ta cho'gue enao para en man mamaila siha taotao-ta. Hu supotte este yan i land trust na appeal. Dãngkalo na Si Yu'os Ma'ãse, Biba Chamoru, Biba taotao Guam, Biba Man Chamoru! Saina Ma'ãse! Adios.

Senator Hope Cristobal: I'm here in support of both of the resolutions, 51-34 and 52-34. And I want to thank you because I see, Vice Speaker, your name on the resolution and I'm wondering whether any of you senators up there are going to be supporting this resolution after hearing all of us here today. We are not just a rag tag group of the people here. We are here because we want to express our heartfelt petitions to you to continue the fight. And if I could, I don't know how many of you understood what Ray has just said. I don't know how many of you truly understood but I'm sure that if you didn't understand his words, that you could perhaps absorb the vibrations and the vibes that he brought with him today. This is a very emotional time for our people and I think we come here because we look at you as our leaders. We can touch you. We can feel you. You can talk. You can respond to us. And you are the only ones that we can hope to find remedy for our problems here on our island. I do not have a prepared statement today but I will speak from my own experience. As you know, I authored the Decolonization Commission Law. As you know I authored the Chamorro Registry Law as a companion to the Decolonization Commission. That occurred after I returned from testimony in Congress in October of 1995, I believe, '96 when they, House Resource Committee had a hearing on the Guam Commonwealth draft. We knew then after that hearing, the sentiments, the two sentiments of the United States government. And we knew then that the United

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States government has failed us. The United States government continues to fail the people of Guam. If we fight the fight through the court. There is little room through US jurisprudence to win but we will fight because that is what gives us hope to see that our leaders are going to pick up the best that you know, what you have told us during the campaign that you would stand by us and we are looking to you to do that for us. It's a challenge because our land, which by the way is perhaps the connection to the United States. It's about our land. The takings of our lands. The United States didn't come here because they are interested in giving us rights. Excuse me. They came here because they took, they wanted to take our lands. And that is the only connection the United States has with us. They don't care that we are human beings. That we have human rights that they have to contend with. The loftiest ideas of America is despicable to us. When you look at our Chamorro culture and how we deal with ourselves and our connections among ourselves, so they talk democracy? This is not just American democracy. We have learned of about democracy and the ideals of democracy but we see that the practices of democracy hinders our growth and development as a people of the land. And with all due respect, Senator San Nicolas, the idea to seek voting for president is not going to maximize the existence of the Chamorro people in the homeland. It will do nothing but allow them to go into the ballot box and put a little tick on a piece of paper that does not acknowledge who I am as a Chamorro in my homeland. Please withdraw that resolution. It does not benefit us at this time. We can perhaps, once we decide on a political status be looking at a presidential vote. At this time we need to hold up our people. We are all out here, many of us crying, pleading, hugging each other, giving each other warmth, trying to survive through these times during Mes Chamorro. We need to bring back the Chamorro registry. And you can do like former Vice Speaker Ben Pangelinan has done. We can take all those who were registered in the Chamorro Land Trust and put them in the Chamorro registry. The Chamorro registry was passed by law so that we can identify ourselves as Chamorro people that need special care in our homeland. It's still alive and it's still in the books. The Decolonization idea came from the Chamorro Registry but the from the Chamorro Registry stands. If you look back, even Pacific Daily News supported the idea of having a Chamorro Registry so we can identify ourselves for cultural purposes. I understand the difficulties and the struggles that you will have and I understand that perhaps we will lose and we will lose in the US courts. But we look to you. We look to you perhaps through a resolution like this but perhaps through other remedies where you can craft out a way where we the people of Guam can survive as a people. The difficulties that you

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will have is because Guam has two personalities. We are a US territory and we are also a non-self-governing territory, acknowledged by the United States. Every year acknowledged by the United States, every year at the United Nations. And at the UN, you know although it's just a forum, we go and we plead our case as to how the Chamorro people are faring in a colonial setting. And just to digress quickly, I think one of the best things that any of you can do is relocate your senatorial offices to the steps of the White House and sit there and hold up a sign, "Chamorro Self-Determination". That will get us somewhere, not to the courts but it will make a statement to the world that we are denied this historical right of ours as a non-self-governing territory we talk about decolonization. The only people to decolonize are those who are colonized. And so senators, the vote for decolonization is qualitatively a different kind of a vote. It is not the same as the vote for senator. When you vote once as a people to decolonize, that's it. You're done. We move forward and we decide what status we want. It's a different kind of a vote. You must ask yourselves, why are the people in Arizona, and by the way, Dave Davis is a resident of Arizona, why is Arizona not conducting a plebiscite? They are done. They are done and over with. They have decided to become a state. We don't vote on our decolonization every two years. It's once in the lifetime of a people. It's a people's right, not an individual right. It's a people's right. And it is not the right of the land called Guam. That's why Davis is wrong because when we arrived on that airplane on the US air force up at Andersen, he voted with his feet when he arrived here. People who come here for other reasons than the fact that they are interested in the Chamorro people come for other reasons like economic reasons. They have already voted with their feet. They should not be voting for another people's right. It is the most flagrant discriminatory act that the United States has imposed on us but the ruling of the District Court. They have now perpetrated a racist discriminatory act on us. The US has failed us will continue to fail us but we must not stop fighting. My suggestion regarding the land trust and how we can perhaps quickly remedy and I go along with the idea of some of you, is that we have over 5000 people sitting, waiting for Chamorro Land Trust lands for so many years. Give it out tomorrow. Give all the land out to all those people on the land and we'll be done and over with. We'll solve that problem. There is a lot going on island and I know you have your minds on all these little struggles but this is a big, big fight for us. And I really applaud and I beg you and I know Senator Will Castro, you campaigned on protecting and helping people with the Chamorro Land Trust and I hope that you fight that good fight. And thank you Senator, you recognized the need to touch base with the grassroots. I applaud that. And

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Senator Mike San Nicolas, I applaud you looking for remedies, but you have to get our people's consent to move forward with a presidential vote, I'm sorry to say. I beg to differ with you. We need to not go that route at this time. So again, Guam with its dual personality of a non-self-governing territory and you're made to address it and the recognition that you are a senator of a colony. You must realize that. You're a senator of a colony. We need dignity and you are the leaders that will help us get our people to attain political dignity. And we look to you. We cannot just do lip service. We've got to fight tooth and nail and a resolution must evolve into something bigger. Yes, let's take the fight to Congress, but let's fight. It's what gives us the energy. We need to energize our people right now. We are all lying down. We feel defeated because these decisions by the US Department of Justice, by the District Court and all the talk by the media out there. You know we need friends but we also offer you our prayers as you do your work that is very difficult. Difficult decisions knowing that you are just a senator of a colony. I know you took the oath but we need to begin to re-think that oath because the reality is, the fight that we are fighting is because we, the Chamorro in our home. You know I just saw my old professor, Dr. Batansas (sp) and he drilled into our head how home is a place that you go to feel good. Isn't it? Home is a place that you go to feel good yet when you look around our home, you look at the social stats, and look and find out who is not feeling good in our home. It's not our visitors. It is not all those people driving around in their BMWs. It is not these businessmen that have come out here to establish business because there is militarization of the Chamorro people happening and they are going to exploit that. We are the ones that are not feeling good in our home. We occupy the lower statistics of our people. Our homeless are increasing and voting for president is not going to remedy that. But fighting for dignity, fighting for political dignity is worth the fight. Just to add a little more, when you look around, we are the ones making the mistakes in our home. We are the most incarcerated people in our home. Those are symptoms of being a colony so we need to lift those burdens off the shoulders of our people so we can thrive. That's what we are looking at when we look at you as everyone has expressed how youthful you all are but behind that youth is the energy and some positive vibes that we get. And we hope and pray that you will all succeed for us. Si Yu'us Ma'ase and thank you very much. I'm sorry Senators, can I just finish? I'd like to invite all of you and everyone here in this room. We are holding a rally at Adelup from 4 p.m. to 6 p.m. on the 31st of this month to express our Chamorro-ness and to request for respect for the Chamorro people. Today I brought this banner, "Respect the Chamoru People" to emphasize the fact that

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we need to improve in that area. Si Yu'us Ma'ase.

Lasia Casil: Hafa adai Vice Speaker and Senators. Saina Ma'ase for allowing me to speak today. I'm here to testify in support of Resolutions number 51 and 52. Si Yu'os Ma'ase Senator Terlaje for moving swiftly to introduce these bills. My name is Lassia Casil, I'm the founder and president of Save Southern Guam. I am a resident of Santa Rita and Agat; my family is originally from Sumay. In 1865, African Americans were granted 40 acres and a mule as reparations for the newly freed slaves. I'm not going to sit here and compare plight to those of the African Americans that were stolen from their homeland and enslaved. That's not my point. My point is that the president of the United States and the U.S. government took action and make right what was wrong. In 1868, they made all the former slaves U.S. citizens, forbidding the States to restrict their rights. In 1870, the 15th amendment was ratified allowing African Americans to vote; this didn't include African Women but that's not my point. Again, the president of the United States took action to make right what was wrong. In 1941, the U.S. government fled our island and left us to fend ourselves. When they came, there were no reparations, they took our land, there's no citizenship. And even when we were given citizenship, it's a second class citizenship. 67 years later, we're still second class citizens. The U.S. government and the president has not taken any action to make any of these wrongs and make them right. We're still fending for ourselves. We created the Chamorro Land Trust for ourselves. This is our 40 acres and a mule. We created the plebiscite for ourselves; this is our 14th amendment. We are paying back our own war reparations from our own pockets because the U.S. government still refuses to step up to the plate and make things right. With all due respect to Judge Tydingco-Gatewood and her ruling, this proves that the game is rigged. To systematically oppress our people for over 400 years based on our race and turn around and use those same rules, put in place by foreigners not our people, to deem us racist on a nonbinding vote breaks my heart and my spirit. But it also makes me stronger. Senators there is a monster eating away at our island, bite by bite. Were fighting it in Pago bay, were fighting it in Agat, were fighting it in Talafofo, were going to fight it at Gun beach, Lost pond; it's all going to be gone. This is what we do in Southern Guam. The land that connects us to our culture without the land, we have no culture. Senators I brought this book today to share with you. It's a book about Sumay. In it is a list of 775 names, I'm not going to read it out loud I'm just going to add it to my testimony. There is many more names that need to be added this. But twice a year, were allowed to visit Sumay. We don't need to add another chapter

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to this book. We don't need a lost village of Yona, a lost village of Dededo or a lost village of Merizo until, what? We have a lost island of Guam? And then what? Do we get to come twice a year on liberation day and all souls day? When there's nothing left for us. I'm going to be brief, but I want to close with this. My father served in the U.S. military for 20 years and when he came home, all he wanted was land to farm with. This is his land, Chamorro Land Trust Application, he's been waiting. Last year, my father is so old now. He's probably never going to get it. He transferred it over to me. Other than my life, it's the most precious thing my father has ever given me. And I look forward to one day being the steward of this land as so many other people waiting for their lands. So please, I implore you, Senators. Please protect us, our people, our culture, our way of life, from further harm. Si Yu'os Ma'ase.

Ray Lujan: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Darrin Pangelinan on behalf of Lakretia Castro-Santos and Social Work Student Alliance: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Rosario Perez: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Jose Garrido: Si Yu'us ma'åse' na un na Guåhu finenena bai Hu kuentus. Um Guåhu si Jose Ulloa Garrido. I belong to the Garrido clan of the Harmon cliff line, the volcano is smoking, I think there was enough said, by the way I support both resolutions, I think there was enough said about the history of Guam, the Marianas Island actually, because we were separated in 1898. And so that history before that is Marianas history, I know a little bit of the anthropological background of the island, I know a little bit of the archaeological background of Guam and the Marianas Island, I know the histories of the Marianas Island and Guam. I am not an expert but I certainly can find answers to any questions that you might like to ask. I am also a World War II veteran; I am a victim of the most brutal treatment of Japanese occupation. I did not die as you can see but I was in Manenggon, I was in Matat Talofoto, where we lived for four years, and then we moved to Asan, where I grew up to be an encourage able young man, going about their business, just being a happy go lucky, young man, until I found out that maybe, I shouldn't be that happy. Enough had been said I know that

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Attorney Phillips have actually rendered enough answers to the questions that we could understand but were not all attorney's. And I don't claim to be a lawyer, but I do know a little about laws, and its contradictory ramification and I know in some part some of these problems that we are encountering recreated ourselves. And I am not blaming our past leaders, for putting us in such terrible situation as far as our human rights is concerned. They were only trying to help us, to protect us, and the best they could imagine and if we were U.S. citizens that the federal government will not step all over us. That's the basic history of why our former leaders decided to go to Congress or to the President and ask for us to become U.S. citizens. And we've been asking since 1899 and we've been turned down, until 1950. In any case, move fast forward, I can ask the question, how can Kanaka Maoli not be Kanaka Maoli? How can our Samoans not be a Samoan? So my question is to the district court and to the Department of Justice is how can I as a Chamorro not be a Chamorro? How can I? The perspective that I have because this is the thought process as Chamorro's that were looking out for the best interest of the people and they say that is racist. I don't want to mention that anymore that racist issue. Racial blame? But let me say something about that ruling. Judge Gatewood listened to that Dave Davis and I bet she listened attentively, very attentively. It took her about having six months and I bet you that her advisers are two racists from the Navy, who were attorney's and every now and then where there's case in the District Court, they would ask them to become deputy U.S. Attorney General. One being their last names, Lynch, and the other one being Schwab. They might be another one, whose last name is Sheldon, I know them well. Basically these were attorney's who work for the federal government and are anti Chamorros. I know them well. I've been in this business since 1987. I'm seventy three almost right now, and quite frankly I am tired of being an activist. I'm a nationalist so I don't have to be going around being an activist physically but I can be a nationalist in all aspects of all my life. When Judge Gatewood said, I'm sorry I understand that the Chamorros are colonized for one thousand years, and they have been dealt with all kinds of human rights violations, I have to rule in favor of Dave Davis, because of the fourteenth and fifteenth amendments rights are being violated. For what? His right was being violated because we didn't allow him to participate to determine our political status. The question is who is the self in the self determination. The self is quote and unquote not only the Chamorro people but every community that has become colonized and not exercised of their right as self determination. The non self governing people is the self in every plebiscite. And there are at least seventeen or nineteen non self governing people including the Chamorro

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people that have not yet be given the right to self determination. It's recognized internationally and affirmed on their international law. That we, the Chamorro people, on Guam are the colonized people. Davis wanted to make sure that he be given the right to determine the political status of the colonized community. And that's where it gets deeper, when a person is given by the district court by the power of the constitution to participate and to be with the people who are colonized to determine the political status of the colonized people, Davis was given a special right. Which means that his right is paramount over us. Why? Because in fact he's not making a determination of the political status of the island. He's making a political status or a decision of the political status of the Chamorro people should have these rights didn't have before he had a civil right that was accorded to him by the United States as an American citizen and you know what he had those full rights that we never did. That's why I'm saying if you look at this angle that a person was given a right to determine the same Davis the judgment gave me the right to determine what this colonized Chamorro right status is. Am I equal? No. I am higher than her because I am determining the political status of Trini? Why there was no self determination the highest power of determination is self determination in other words the person who is colonized shall exercise the right to decide by herself or himself with outside interference to determine whether he or she wants to be enslaved for ten thousand years, or to be free forever. And we were give three political options. Which of course really isn't statehood it's not really freely association of the United States, actually the original is integration, full integration without independent countries. So we could have been we could have voted maybe if they allow us to be fully integrated with Australia for example. Or we could have free association with New Zealand. But no we decided to be colonized with the United States for one hundred ten years we decided maybe we stick around with. I admit senators the United States are the best colonizers in the world, but that's not the argument here the argument is human rights and under the principle of decolonization, economics and your population of the colonized is irrelevant. If there is two or one Chamorro on Guam and he is the only remaining Chamorro in the world he has the right to self determination to determine what political status he want to be in it has nothing to do with population. In any case that's just my argument not being an attorney how I can legally articulate that but I'm just saying that the ruling that was handed down by Judge Gatewood, poor Judge Gatewood, is that he gave Mr. Arnold Dave Davis special power the right over us to determine our future. I don't know if you can see that but are we supposed to interchange our testimony or shift to

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Chamorro Land Trust because I have a document here that I don't know if your folks have ever seen it I just want to explain maybe two minutes.

Chairperson Terlaje: Yes but technically the hearing is separate but I'll allow you to give your testimony for Resolution 52.

Jose Garrido: Are we doing Chamorro Land Trust testimony today?

Chairperson Terlaje: The Resolution 52 is after this hearing on Resolution 51, but I will allow you to if you can conclude it in two minutes. I'll allow you right now.

Jose Garrido: I actually took four hours of annual leave to be here but I got to go back but I'm still an activist but I do have to work for a living so you know unlike Dave Davis he didn't have to. Let me show you something here I hope I articulated enough with in regards to my testimony on the ruling that our rights it gets exercised all by ourselves is unconstitutional alright. But this when you see sometimes when you are an activist you live in a state of confusion and chaos. In any case I'm holding a document here that gave birth to the Chamorro Land Trust and the entity that required to have, that is the U.S. Congress this one is the United States Department of the Interior Office of the Secretary, February 26, 1952. I don't know if you seen this, my dear Governor Skinner and it was a letter from the Director Chapman, the Secretary of the Interior back then. He said by virtue of this convenes the Government of Guam obtains a feasible and determinable title to the lands sole transfer the Government of Guam may without the approval of the Secretary of the Interior sell or lease or otherwise dispose of these lands thirty thousand acres. They thought that they took too many acres of the Chamorro's in fact at the time they owned acres eighty percent of Guam so they realized man they got to give those lands back so they gave thirty thousand back when they first established the Government of Guam by the Organic Act. Lease or otherwise dispose any of these lands for (1) rehabilitation and resettlement purposes (2) homestead purposes they convenes have been made the Government of Guam in order to ensure the successful completion of the Guam Rehabilitation and Resettlement Program which was initiated by the federal government to make lands available for homestead purposes to enable the Government of Guam to give adequate consideration to the matter and other long range public purposes and to accommodate substantially the legitimate desire and aspiration of the people of Guam that the public lands of Guam be administered locally and be made readily available to meet their land

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requirements. They're not talking about Dave Davis, they are talking about us, Chamorro's. Let me show you what is you know there is a lot of legal written words in here but let me go down whereas in section 40 public law 33 of the first Guam Congress approved August 29, 1951. Directs the following priorities shall be observed with respect to the sell and lease of Government real property for residential or agricultural purposes. First, person who have had all their land they used the nice word acquire but let me change that person who have had all their lands taken by the United States, the Naval Government of Guam, and the Government of Guam and who have own no other land since January 01, 1946. Saying that these returned lands is to give some of those properties to those Chamorro peoples lands that were taken. Second, person who have had a substantial portion of their land taken by the United States, Naval government, Government of Guam, since July 01, 1944. Which is my grandfathers property included. The remaining portion whose land is not adequate or sufficient for reasonable agricultural or residential purposes. The rest is for rehabilitation of the war torn, PTSD Chamorro people. And this is the purpose that gave birth to the Chamorro Land Trust it was not a Chamorro Land Trust it became the Arendo but many of our people didn't follow through with the intent and so quite a few lands can develop and I don't want to be ensuring that because everybody be making a mistake but senator the late senator late Paul Bordallo and everybody with him decided to sit down and say let's see if we can accomplish some dignity here and give answers to our people and our home and village and all that and they came up with the Chamorro Land Trust this is the answer to that Dave Davis because those lands in the land trust did not we did not receive that through the goodness of the United States those were lands that were actually taken from our people and to somebody to say that is unconstitutional I'm just letting you know that the land trust did not develop initially by our people it was develop by Congress in allowing the Secretary of Interior to come up with some kind of redress for all the things that were done to our people. And many of us have suffered for that. I don't have any lands in the land trust right now but all our property were taken by the military on both my mother's side and my father's side. And am I bitter? What do you think? I wasn't born in closing I wasn't born an American citizen, I was not never was they passed the Organic Act when I was seven nobody ask me to be an American citizen. What they forgot to do is that even our own people of congress is to pass a law that says once a Chamorro that reach an age of eighteen they should go in a federal office, the district court and declare your citizenship. I don't believe they could pass a law that make people citizens and when they passed the Organic

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Act, that made citizens of the United States here on Guam they made a thousand of people who had died U.S. citizens. Think about that, pass a law that make people U.S. citizens in Pigo cemetery. My grandfather and my mom and my father and my grandfather my grandparents were not U.S. citizens they have been abused and misused and their human rights have been violated by the United States and counting. I'll continue to fight this by any means at some point in the future if we can't resolve diplomatically we'll resolve it in other means.

Mr. Garrido also referred to a letter from the Department of Interior dated February 26, 1952 which is attached.

Josette Quinata: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Carlos Camacho: Vice Speaker Terlaje, honorable Senators. After sitting out here for a couple hours, I realized you were on Resolution 51 but I saw a lot of mix of 51 and 52. So I hope that I can speak on 52-34. Earlier today I was listening to of course the passionate discussions with a lot of our indigenous friends here in the session hall especially with attorney Mike Phillips on certain parallel vehicles we can use in Congress to identify probably solutions. For the record, my name is Carlos Camacho. I'm here as a private citizen and my main expertise is in housing. As I know the impact on the fair housing act and the discriminatory sanctions it has on the markets without the land trust restrictions. I understand what they are looking for and why they're claiming there are some violations on the fair housing act. But what I wanted to just share for the record is that, ironically, Attorney Mike Phillips said that if we have certain vehicles that are already in Congress that identifies us a qualified land trust community, then maybe that's the vehicle we should use to work with Congresswoman Bordallo. I was talking to her chief of staff, John Calvo, earlier and I wanted to share the things I've found during my tenure at the housing development. Congress passed a law, public law 102-547 and that law is catered to the Native American home loan program for Native Americans. That's in 1992. In 1997, five years later when that was passed, Governor Carl Gutierrez and Secretary of Veteran's Affairs Jesse Brown utilized that law to promote a native indigenous Chamorro veteran's program through an MOU with the government of Guam through one of its housing authorities through Guam Housing Corporation. And that's here signed into law by the Secretary of Veteran's affairs of the United States government authorized by the Senate and the House of Congress. So what I did

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was I took this MOU in 1997 and decided to look at the different U.S. codes that was referencing this MOU. And it referenced §102547 and like Mr. Garrido when he found another statute in the Department of Interior, I want to read one paragraph that defines why they use this vehicle to provide to an indigenous Chamorro, which is a veteran Chamorro. And that's why there's a conflict with one arm of the federal government saying were discriminatory but maybe through a Congressional action like this, we're not discriminatory because it's going to an indigenous family. So let me just read that one section of this law. What this law says in section d: "on any island in the Pacific Ocean, if such land is the cultural tradition, communal owned land and determined by the Secretary". It's a very short paragraph so I did further research and communally own land is basically land owned by the government as a whole. So we meet that definition. So based on that law, in 1992, under Governor Gutierrez and Madeleine Bordallo's time they took that and persuaded the U.S. Secretary Jesse Brown to sign the MOU. Guam was given 40 million dollars for the native veteran's to build their home. The reason we haven't used those funds, is 1: we don't have the infrastructure resources as we all know that's why there's 8,000 or 5,000 people waiting in the waiting list. We have the land but we don't have the infrastructure. So in 2008, Governor Felix Camacho contacted U.S. Secretary of the United States Department of Agriculture to see if we could be part of SUTA. Now SUTA is known as the "Substantially Undeserved Trust Area." What that is basically infrastructure program to provide water, sewer, and roads through a federal vehicle. Remember I just mentioned the Veteran's vehicle so the SUTA is under the United States Department of Agriculture. That's 2008 when the request came in. In June 13, 2012, the U.S. government code of federal regulations code and quantified that law. Under SUTA, section 1700-105 here's what they stated. This is documents by the federal government providing these programs to indigenous communities. It said that letter F: "evidence that land is located on Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, and they tied this Veteran's program, and is eligible for the use in the Veteran's administration direct loan program for the purpose of Veteran's purchasing or constructing homes or on communal owned land." In 2012, we finally got an infrastructure vehicle. Now what I'm trying to say here is these are the tools that, you, the policy makers can use to work with Madeleine Bordallo and Congress. While one arm of the government is saying that we're in violation of the fair-housing act based on race, color and creed, we got another arm that recognize us in public law 102547 and the law that Mr. Garrido had mentioned with the Department of Interior. We got conflicting laws that

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identify us to use these programs defined under these two vehicles for Guam under the Land Trust definition of these laws. So Attorney Mike Phillips when I was listening to him talk to Senator Mike San Nicolas, if there was already precedence, if there were case studies, why can't we take this now and say yes, you did cite us in violation of Fair Housing Act under race, color, creed. But ironically, you provided a federal legislation which is given to indigenous people which is our veterans that are well deserving but we have federally recognized indigenous Native American, Chamorro veterans that is qualified. So I just want to share that for the record, that there are two different federal arms. Of course, I'm assuming that the U.S. Department of Justice, and I got to be very careful in saying this because I do a lot of federal programs during another hat I wear, so I don't want to get a slap on my hand. Because we don't violate FHA, knock on wood, but I wanted to share that there are different resources with one stating it's available through an indigenous group and identify Guam in those public laws in U.S. Senate, in House. But I never seen this mentioned in case studies when they were fighting this in court. So these are things that I already provided to the Speaker of the House and I'll provide this to the rest of the Senators. It's a tool that's available, it's a tool that is recognized Guam as a communal land trust property through two federal agencies. And that's all I got to say, I just wanted to share my knowledge in the housing industry that these are programs that are available immediately for land trust properties. I think that if we want, we can utilize and thanks to Senator Tom Ada, who now finally put the missing piece to this. Remember we got the SUTA program but it is a program by the RES Rural utility service but you need a source of funding to take this resource available. And Senator Ada finally passed a law to take commercial land and I know there was a lot of conflict with that but to take the revenues to benefit the indigenous families who want to build homes so we can bring the proper power, water and sewer. That was the missing equation to get all these lands out. So you got all the tools, 15 Senators here that can take this and work with the Governor and Congressional branch to pass policies to leverage these programs so we can finally bring infrastructure to our Chamorro indigenous families. Thank you very much.

Maga'låhi Aniti: Håfa adai, Guåhu si Magalåhi Maga' Aniten Roberto. Guåhu guini, måtto hu' guini pao sinangan i kuentos magåhet, maseha taimanu ma na'puti i taotao ni i sinente-ña, lao, nisita i kuentos magahet pao ma sangan. Sa' ai, Guam. I kuentos magåhet guini, unconstitutional and constitutional. Hamyo ni mansenadot, un pega i kannai-miyu gi Biblika no, gi inauguration? Pues, lek-

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mu "I swear to uphold the Constitution of the United States of America." Ayi gi, magâhet yu', right? Kuentos magâhet. Mângge' i Constitution of the United States tras gi Biblika? Lekña gi Biblika, "Thy shall not lie." Hâfa na siga' i dâkon lâ'la' Guam? Sa tâya' guini Constitution. Tâya' guini U.S. citizen. Ni hâyiyia' guiya hita, maseha hamyu ni muswear – tâya' guini U.S. citizen. Tâya' guini Constitution. Hamyo pâppet government of Congress. Created by Congress. Sigia' i kuentos pre-Organic Act. Bâsta umekungok i Organic Act. Taitai i Treaty of Paris. Taitai i Treaty of Human Rights and Cultural Rights by the United Nations ratified and passed by Congress. Taitai i Decolonization Committee of 1946, signed and Guam was always entered by the United States in all of those treaties that were signed and ratified. Pues sigia' hi guini ni dâkon. Ya tâya' guini Constitution. America has no authority on Guam, what-so-ever since 1941 when they abandon this island... before the Japanese take over since they abandon this island they lost all rights to this island. Ayigi' kuentos magâhet. Lao sigia' hit ya i pagamento mâs empotânte i pagamento kontra i kuentos magâhet. Hasso hamyo nai – swear on the Bible – "I swear to uphold the Constitution of the United States of America." Pues laña, manggâna si Dave Davis! Hâfa nao? Hâyi guini U.S. Citizen? Hâyi? Mângge guini i Constitution? Mângge? Ayu gi' kuentos magâhet nai. Hâfa na sigi ha' hit ta fan ali'e', ta fan hunta put ta sângan para i piniten i tano'. Lao... ti siña u na'pâra ha' lao sigi hamyo, sigi ha' taotao America this, American that. Hurrah America. Proud CHamoru. Guao, binedoson taotaomo'na yu'. Guao, i Prime Minister of the Republic of the Sanâhi Archipelago. Hâfa na sigi ha hit pot dalaliki i dâkon? Ya i salappe' ayigi' mâs presisu. Mângge i lai ni muprotétehi i Kottura? Mângge? Unu ha' malago'-hu po, sanga'ni hit fan, unu ha' na lai ni moprotétehi i kottura. Taimanu na tano'-ta este? Tâya' guini tano'-ta. Pura' hit ta hongge, ta osge ya ta honño' i lain Amerikanu pâpa' gi aga'ga' i taotao-ta. Ayigi' Guam. Nai'an ayu pao pâra? Ta debi ta fana'âli'e' guini pot este. Ta debi pao mângas si Dave Davis gui halom gi kotte – si Gatewood ni unconstitutional. Tâya' guini, puru'a dâkon. Ma é'ekungok. Ma o'osge. Ékungok hâfa u sâsangan sa' hamyo ni chomoge' gi Bibilica, "I swear..." Kao dâkon yu' pâ'go? Ha? Kao dâkon yu'? Ya ta guao muswear. Lao, hâfa nao pon swear ni dâkon? Lek-ña i Biblika, "Thou shall not lie." Esta mandagi hamyu. Kantodu si Gatewood mandagi. Ya guiya lokkue', "I swear to uphold the Constitution..." Lao kuânto yoña salary? Pues i kuentos magâhet nai ta lalai guini. Ayu gi lelek-hu. I kuentos magâhet para hita i taotao tâno', puru'a dâkon machó'cho'cho' guini. Constitution. Mângge i Constitution? Hâfa na unconstitutional? Lao mângge i Constitution la'i? Mângge i yo-ta rights? Mângge ikuâliti? Mângge i democracy? Mângge i justice? Mângge? Guaha guini

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tumungo'? Mångge? Mångge i lai ni muprotéte'hi hit? Lao, America, i yo-ta master maseha hâfa na treaty ma cho'gue pot Guam – ya ayu gi mâs puti nai-siha pumega hâlom Guam. (Chuckles) Siha ma na'halom i na'an Guam, lao mångge i cultural rights? Mångge i human rights? Mångge i democracy? Mångge justice? Mångge equality? Mångge i Constitution? Pura' guini unconstitutional. Hâfa na sigi ha' hit ta na'tatkilo' lai otro gi chagugo' guini mâgi na tâno'? Hâfa este? Hâfa guaha Guam? Ha? Pa ta âmen, pa ta chiku dâgan ayi â'paka'? An mâtto hita purua' hit, "Mungnga ennao. Lachi bidâ-mu. Ai na binaban taotao hao." Ya guao, "Yanki go home." Unggan, Yanki, go home. Unggan independence. Unggan the Republic of the Sanâhi Archipelago. Yan, unggan RSA not USA. Ngai'an pot ta na'para i dâkon ni la'la' guini na tâno' yo' ta fanacho ni magâhet ni kuentos magâhet? Mungnga i dâkon, na para i dâkon guini. Ya mampos megot i dâkon. Lao, i koston na guini, hâfa na metgot ha' i dâkon? Pagamento nai, i salâppe'. Ya bula debi. Nisita kareta. Sigi'a pao ma hâtsa ta'lo preson i gasalina. Lek-ku, siña ha' ta chule' mâgi i gasolina less than a dollar a gallon. Lao, "Ti siña, manlalâlo' sa i Amerikâno. Ayigi nai Constitution nai. Lao, i magas guini – Congress – todû hamyo tumungo' ennao. Un taitai todû ennao. Taitai i Organic Act. Taitai i Treaty of Paris. Taitai i treaties ni mafa'tinas gi United Nations, ni ma ratify ni Amerikânu, ni Congress. Pura' hit i dâkon ta daliliki. Mungnga hit ni magâhet. Nisita ta yute', ta na'pâra i manhonggen dâkon. An pa ta sângan na taotao tâno' hit tâya' guini tano'-ta. Ko dâkon yu' gui? Tâya', ni hâfafa' guini tano'-ta. Ya, i lai guini, lain Amerikânu. Lao hâyi mângas gi? Congress. Lek-ña gui gi Organic Act, "I grant you U.S. citizenship without the rights to vote for president. But I watch the people of Guam to be obedient to the sovereign laws of the United States of America." Kao dâkon yu' talo' gui? Eyige' lek-ña gi pappet. Yan hâfa na ta hohonño' pâpa' ya ta na'pûputi i taotao-ta ni i dâkon. Hâfa na ta siña pumâra? Ha? Mungnga ma hongge yu' pot fabot. Mungnga ya' ma hongge yu'. Spia taimanu nao dadagiao. Lao, tâya' lai salâppe'-hu pao nâ'i hamyo. Ta tatao Congress hu'. Mångge si Madalena gui? So-ku na debi lek-ña Constitution, "Two members to Congress. With full voting rights." Mångge? Hâfa, mângge House of Representatives? Hâfa na sigia' hit gui i dâkon? Hâfa na ti siña hamyo tumachu gi i kuentos magâhet yon sângan, "Pura' ennao dâkon." Hâfa na debi po honño' pâpa' ennao na law gi papa i taotao-ta, gi aga'gâ-ña? Hâfa na tai siña manachu taigui? Ha? Mandângnge' hit. Tâya' nifen. Hâfa guaha pot salâppe'? Pues bâsta! Puti lâi hâfa guaha. CHamoru Land Trust. Plebiscite. (chuckles) Pura' nachalek si Camacho nai a sângan ayu ilek-hu, "Hâfa na esta pâpa'go tâya' na manâna'i i taotao tâno' i tano'?" Ya sesso ma sângan tâya' salâppe' pot i infrastructure. Atan ha'. Atan hâfa guaha Guam.

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Puti. Puti. Lao spia taimanu nao dádagí hamyo.

Now I can translate everything I just said. Not all of you understand what I said. But please, do not believe me. You are a puppet government of Congress created by Congress. All laws in Guam is unconstitutional because it's up to Congress. It says that in the Organic Act. Why don't we go to the Treaty of Paris? Why don't we go to the United Nations which the United States has signed, and they're the ones that put us in. Why do we have to continue hurting our own people because of the U.S. laws, which is thousands of miles away. We have to go to America and go, "Master, can I have permission to grant my people land? And, can I have permission for open skies? Can I have this... can I have that? Please give us permission my Master?" Ayigi bidáda-ta. That's what we do. When is that to end? Why can't we just say, "There is no constitution on Guam?" Those laws that Gatewood or hardwood or whatever her name is, says for Arnold Davis, "It's inappropriate. It should not even stand in court. It is all based on lies. If you break the U.S. Constitution Bill of Rights, and every document, you can find based by... written by America, everything is false on Guam. It's a farce! It's all lies. Why do we allow it to rule us? To ruin us? Why do we allow it? One reason is we've lost confidence. Second reason is money. For the love of money. Hãfa mon? That is the truth. In psychology nai, that is the truth. And, I thank American for forcing me to learn, cause when I was a child, I was punished for speaking my native language. That's why today, I don't even know how... I'm not good at reading or writing. But leche ko', when it comes to white man, I'm beri good. Pãre' I'm beri good. Cause it was forced down my throat. So, I'm throwing it back. Now, go into those treaties, go into those paper works, those documents because this is all a farce. We shouldn't even be here, today, for this. Arnold Davis should have never won nothing. Cause, constitution, unconstitution. Hell, the Constitution doesn't even apply on Guam. (chuckles) Thank you.

Dr. Michael Bevacqua: Buenas yan Hãfa Adai. Hu agradezi i chansa para bei ekungok i ginefpã'go yan i minangge na diniskuti guini pã'go. Ti bei kuentos apmãm. Hu sapopotte i Resolusion put i kao para ta apela i diniside-ña si Tydingco-Gatewood annai ha aguiguiyi si Dave Davis ya ha kefunas i direcho-ta komo taotao. Annai hu hungok put i diniside-ña i hues, gi minagahet ti nina'manman yu'. Hunggan, na'desgãnao yu', lao ti na'manman. Anggen ta gof atan i hestoriã-ña i Estãdos Unidos, fihu hu tuge', gi Fino' Ingles, na i lugãt ligãt, the legal place, para i mannatibu gi sanlagu. Kalang un maze gi Fino' Ingles. Gi

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Fino' Chamorro ilek-mâmami yan i famagu'on-hu, "fanabak'an." It's a place where you get lost. And so, anggen un atan i hestoriã-ña i mannatibu Amerikãnu siha yan siña lokkue' i eksperiansia-ña i taotao gi CNMI put federalization yan todû ayu siha, gof annok na este lugât ligât, the legal place para i mannatibu un fanabak'an, ya guaha fanhalum'an, lao tâya' fanhuyong'an. There's always an entrance lao there's never an exit. Mafã'tinas este na lugât, este na fanabak'an, anggen un atan kolo'lo'ña i Marshall Cases gi sanlagu. Annai manhãlom i mannatibu manggaidirecho, manggaisovereignty, lao i fanabak'an, the legal maze, ha chule' ayu siha, todû ayu siha ya ha nã'i siha tãtte ni' dependency, domestic dependency, territoriality yan colonialism, todû enao siha. And so, para Guahu, ti na'manman na ti manggãna hit nai gi kotte, gi kotten Federãt. Lao malago' yu' na bei echo i sinangan-ñiha dos na malate'ña kinu Guahu na taotao, si Mike Phillips yan si Robert Underwood, guini pã'go annai ma sãngan na i bali-ña este, i apela, ti put kao para ta fanggãna, sa' gi minagahet, este na sistem mafã'tinas kontra hita, it is stacked completely against us. Gi Fino' Ingles, it is designed to remove our rights and our claims, not to protect them. Gof annok este gi diniside-ña si Tydingco-Gatewood. Kumuentos si Julian Aguon ya didok, tomtom gof malãte', gof maolek iyo-ña arguments. Lao si Tydingco-Gatewood ha yute' todû ayu siha, ya ilek-ña este i constitution, este na amendment yan todû este siha. Lao gof ya-hu i sinangãn-ña guini si Mike Phillips annai ilek-ña, just because it is unconstitutional it does not mean its immoral. Or just because guaha un hues ya ilek-ña, pat ha diside na unconstitutional pat inorganic este, it does not mean that it is not right. And so debi di ta hassuyi este. Gi sinangãn-ña si Robert Underwood, even if we don't win, para hita gi halom ayu na fanabak'an, those of us stuck inside the maze of colonialism, the native maze of domestic dependency, tâya' fitme put i direcho-ta pat i lugât-ta. We have nothing that is very firm about our position. Lao we do have spaces where we can voice our opinion and tell our story. Put hemplo, kada sãkkan, siña manhãnao hit para i United Nations. Ya hunggan, buente tâya' hiniyong kada sãkkan ginen i United Nations, lao manã'i hit ni' ayu na lugât para ta sãngan, para ta sangãni i mundo ni' estoriã-ta. And so este na kasu lokkue'. You know, na'triste annai hu taitai i disision-ña si Tydingco-Gatewood. Sa' anggen ta tulaika didide' i hestoria ni' ha u'usa para u diside este na case, siña matulaika todû. Bei sãngan este gi Fino' Ingles, sa' kumuekuentos yu' put i tinitihon-ña i Estãdos Unidos. When you think about what the United States was supposed to be founded upon and ideals and such like that. It is very fascinating how those ideals evaporate when it comes to the colonies, except in the name of depriving the people in the colonies the very things those founding fathers were fighting for. It is unfortunate, but

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expected. And so every place that we can tell our story, to try to get the United States, the rest of the world or even our own people here to understand, this is not about the US constitution. As one of the Senators up there, who I was talking to the other day, Senator Esteve said, the US constitution may be the law of the land, but it is not the law of the world. And you shouldn't assume that for colonized people the constitution should apply like that, the more that we can convince the United States, our own people and the world of that and to see us as we really are. Not America in the making, as a territory becoming, always being included and becoming a fuller part of the United States, but as a colony, that needs to make a choice about what we want next. Si Yu'us Ma'ase ta'lo para este na oppotunidat.

Trini Torres: Håfa Adai todus hamyo Liheslaturan Guåhan ya magof hu sa' mangaige hamyu ya ene'ekungok han. Guåhu si Trini Torres ya esta la amko-hu, esta masasangan ni manamko siha na fa'na'an amko'-ña hu. Ya hagas ha, guão nai, nu atman nu Maga Håga' Chamoru Nation, pues annai bumasta hu sa' mu ma'estra hu, nu sigi ha' ta'lo activist ha' enche'che'gue lao, enche'che'gue ha' i che'cho'mami lao hunggan, chatsaga nai este pon sigi chumonek pa i direchon i taotaota yanggen pun facho'cho'cho' lorkue' full-time nai, ya hunggan, mappot. Åhe' ti pot mangago' hit, ti pot mandangage' hit ya bai sangani hao i estoria-ta ya ben fan magof. Okay, Bai fino' Engles sa' para håfa na bai translada ta'lo. Okay, I support both Resolution 51- 52 and the thing is you know when we're talking about self-determination and Mike Phillips was here and you were asking so many questions, yes, but I believe that self-determination should not just stay in the courts of the US because whenever you stay in the courts of the US you're gonna lose no matter what. When you're using their own court system, you're gonna lose. So, that's why we need to continue onwards towards the international court system, because the United Nations, you know, they support us, and even the US signed the Charter of the United Nations was one of the primary members and the US have to abide – they promised to abide – they are obligated, and they committed themselves to abide by what, whatever resolutions, whatever the activities the United Nations is going to undertake. Though they don't always, but the United Nations can force them by telling them certain things, visiting to the – visiting them to Washington DC and telling them, and by embarrassing them too, you know, by publicizing things and telling the rest of the world that this is how the US is behaving, and not listening to them. I myself went several years ago and the reason why I guess I feel comfortable going to the United Nations – because after working in Africa – I worked for the

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United Nations there. I was doing medical research, scientific medical research for the University in Ethiopia and I went all over the country doing my research. But then during the revolution, and I'm not talking about living under communism too, dictatorship, I lived under that, but I worked for the United Nations in Africa. That's why I'm comfortable, because I spent about three and half almost four years with them, and I wrote so many articles for them, reports for different countries, and I became kind of like, just drafted editors because I was good in writing, and I was even asked to write so many speeches for the secretary general of the UN headquarters there. So, and I also have a daughter – a daughter is, could be natural birth, right or you could have raised, reared – so I have one that I raised, in fact two kids from Africa. So, I have one working at the Geneva, an international court, (chuckles) okay, in Geneva Switzerland, so I went there. But I know how the system works, and that's what I was pressuring you guys, and you should look into that! I even give – when I came back – I collected those brochures on how to complain to the United Nations because I did complain, I wanted to complain and officially you have to write it down, you know, so I gave him those booklets to read through and see how we could put our case through. But I did write complaints and I even had Chamoru Nation also sign along with me that the US, it has been violating our human rights, and that the United Nations is obligated to confront the US to help us, to lift those violations from us, that means remove, because it's still violating us, they're colonizing us. And, they asked me, in fact they talk to me in person, and also asked me a lot of documents which I provided. I brought it there, you know all those documents I brought and I submitted them. And, I attended the conference there, and I read my statement out and I did accuse the US publicly in my statement that they violated our human rights, and they had been blocking our rights to self-determination. And that's why we have not exercised it, even up to now. So they should have all those documents. It's not that we have not complained to the United Nations, we have, and I have the documents, I even have some of the letters in the folder that you have, Vice-Speaker, you know because I also took the, our case, the fishing problem that we're having here to the United Nations and talked to them about it, and that thing is in that folder too. So, we have to really push upwards, not just depend on the US courts, because we'll never get ahead. Even with the Organic Act, they did their best, I know, because they provided some things for us, like some things that you know, that go for inequity, like the, similar to – in fact the Organic Act – I mean the Chamoru Land Trust, which is similar in, like a program as the in comparative to the affirmative action, that the minorities, especially black

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Americans were given in the States. I know also how it works because when I work in the States for some reason I took the test and everything to get into an AETNA insurance company and my grades were so high and they hired me because you know I was very good in math and English, and this and that. So they use my name as one of the minorities to fit into the affirmative action. I said fine with me, that's fine because even private companies hire minorities – colored people – under affirmative action. So, you know, things like the Chamorro Land Trust is an inequity type of program that the US government – especially Congress – passes in order to alleviate or eliminate some of those inequities that they've been mistreating us with – the injustices they have been doing to us, so that's why in the meantime while we're working to follow through with the Chamoru Land Trust we should also go to the United Nations in New York City and in Geneva. Remember, Geneva has been the first UN part, first UN building called the Human Rights, right? And then they built the other one in New York City. But the Geneva one is still standing, and they're the ones taking care of human rights, so if we have complaints with human rights, we should take it there, as I have already started doing. So we should, and we should not stop, and we should never give up. By the way, I do support Resolution Number 52 also on the Chamoru Land Trust. But let me tell you the story of our people so you remember, because history was not taught to our people. When we were small, they didn't teach us in English, we were taught in English, every, all the books were in English and everything and we were punished if we spoke our language. Okay, when the Spaniards came to our island, okay, and I'll say our island because it's my island too, and I don't care who says it's not my land, it's my land. We have fought, our ancestors have fought for our land! The Cho'chogu people, mind you, that has been, had been the biggest village in Guam, the biggest sengsong. It occupied areas up to Mangilao, all the way Barrigada, Kañáda, Barrigada, in To'to', down Mongmong, Maite, down Anigua, down Adelup, Ma'ina, all the way Sinajana, all around. I know because I live in Cho'chogu, I still live there now. We still have our family property. And, they did, the military took some of it but we refused to give it up, we refused to lease them and it's still our land. So that's what we're still fighting on, even up to now, that pipeline that goes through To'to' is still my land. It doesn't belong to the military, I don't care what they say cus if they do something to me, there's always something I can do! I'm not going to be jumping East and then West, and if they close that road and you know they divide it, I will go to war with them! I can explode that pipe and they know that! No, but they should know that! Just like what's going on the pipeline going to Alaska.

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Okay, that's what one Chamoru woman fought, my mother, to let them open the gate that runs through the pipe and so we never gave up our land, they did not take it, they cannot take it, and we refuse to lease it. So, if my mother who just got up to third grade that time, and I could understand what she's going through, we can fight, and the Cho'chogu people fought with dear life against the Spaniards and they didn't have any weapons, no arms, nothing excepts their fists and you know, spears what they made. Sorry, but I have to finish this story about our people, they fought with nothing! They are the Cho'chogu people, I told you the areas that they encompass, the big, largest sengsong. The Spaniards, you know, they killed our people, and mostly the women, because of the Maga' Hâgas, they don't like the women to be the leaders. That's why our women disappeared – the Maga' Hâga's, because the Spaniards killed them off, but we're coming back, and I'm one of them. Okay, now the point is that they fought for their dear lives – for three and a half years they kept fighting guerilla warfare with the Spaniards and they got so scared, but they didn't give up. And, how the Spaniards were trying to defeat our people, they were telling our other people from somewhere from other villages not to associate with the people from Cho'chogu because it would be a sin if you believe in the spirit, in our people, our Cho'chogu people, but what happen, those people turned out to be our ancestral spirits, so do not be afraid! They were teaching our people that they were the devils. The spirits of our ancestors, the taotaomo'na is what i'm referring to, those are your great-grandfathers, your great-great grandmothers, everybody, your ancestors, my ancestors. So, that's how they fought, they fought, they were defeated, they were all killed, but they fought with their dear life. I just want to tell you they were courageous, so you need to build that courage with you, cause they fought with everything, with their hearts, their minds, to allow us to live today. That's your history, now don't forget it, nobody taught it to you but you can find it in all the history if you read because I studied our history to the detail, so that is our history. Taotaomo'na is not to be feared, they can help us, but you have to be careful, cause they may understand what we are speaking about, but maybe we can be miscommunicating and it could be more dangerous than what you ask, that's all, I ask, tell you. But I can speak to them. My brothers used to speak to them, and it did work, I know, I've experienced some of the things they did to help us, and that is through our land, you know, gaining our land. Somehow, they can make the heavy equipment stop because that's what we asked them for, to stop the heavy equipment from going through the land, and bulldozing all those trees to build whatever they want. They stopped that because we asked our ancestral spirits. We talked to them, and

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they did it, mind you, those people knew who they were, because they could not restart their equipment – the bulldozers, their shovels, their everything, they could not restart it with all the mechanics they brought in there, they had to use the trailer to take them out. Okay. So, do not be afraid of our ancestral spirits, because they are here with us! Yes, they are, I believe that. Okay, thank you.

Siñot Ronald Laguana: (Testimony was given orally in Chamorro. English translation is provided below.) My name is Ronald Tenorio Laguana, familiar Gadde', Labuchu, I am here testifying today (in support of both resolutions) so that let out my feelings for the sake of all my children and their children and their children so that they would not incur the sacrifices that what we are now to incur and in their future. Sinot Aguon who is absolutely correct, he too came here with his message about his children, grandchildren and their future, my message is carried as well in support of these two resolutions. My six grandchildren, more over grandfathers son, Eli who is 8 months, Alex, Liam, Heidi, Beau, and Dakota. They are why I'm here today for one day to which when we are all gone, will not suffer and face this dilemma. I as well stand with my brothers, Mala'et-Bitter(Ben Garrido), Fa'et- Salty (Joe Garrido) Aniti- Devil(Howard Hemsing), si Daddao- Francis Munoz(Meanly aggressive)- Pagat, Ofing, Pagat and to all my brothers whom with us here today, I am extremely elated that they are all here today, the Nasion Chamoru. Our faces appear. We weren't called together today, yet we gather here today in solidarity. I praise you Ms. Terlaje and all of you who are here today, from deep within my heart I praise you all. Just as with the late Ben Pangelinan, who has also fought for our plight in this battle. Same with Sen. Ted Nelson, who is still with us today joining in the fight for this cause ever since I was a child and up till today as he speaks in our native tongue since the past and up till today, I praise him and you all again and again in prayer and with high praise and status. Just as with the others earlier. This is extremely important and I pray for you and all the others who aren't here today. This is the biggest subject matter that we are faced today. We must be resilient and fight this matter to the highest authorities in America, and yes, we may laugh and ridicule my brother Aniti, yet he is absolutely correct. I stand with him. Such as with the Americans and the federal government, they do not understand our sufferings, our past and our history as far back through Spanish times, Early American period, World War II, and still up till today still under American occupation, we must all take on this matter seriously. We continue to endure the pressure and sufferings of injustices. We must all unite, same goes to everyone out in public, we must all standup and march in protest

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and so that I too can sleep well. We must all unite, with our congress woman-Madelleine, our governor, and all the people of Guam. We must come together and unite as one, the entire Chamoru people of Guam. Have mercy on this matter, this is our inherent right, and from our elders and our Lord Jesus Christ, the creator our language is that we speak with the humble words of our ancestors that I say my message. That is all I have to say to you all! Thank you.

Ned Pablo: Buenas, guåhu si Ned Pablo. Esta bai sãngan na hunggan hu suppote enao na resolution... ni pon kontra, ya munga pumãra pon kontra i *US District Court* yan maseha hãyi ni para u kinentra hit put para u ma na'libiãnu siha kontra hita. Hita taotao tãno'. Hita i dueñon este... i Chamoru... Ya fuera di enao, ti hita na maisa manmalago' para u ma... achihet ya para u fanagotte kãnnai. I Chamoron Notte Mariãnas maninteres. Ombres kada diha, kada minutu, sigi ha' humãhalom i Chamoron lãgu yan i Chamoron Notte Mariãnas, yan este mãgi Guãhan. Sigi ha' manma sãsangan, in, in supoppote hao ni hãfa bidãda-mu. In suppote hao put todun chocho'gue na un mimumuyi para i direchu yan irensian i Chamoru guini gi guinahã-ta Guãhan.

Estague' si Louis Manglona ha sangãngani hu'. "Respe... uh, kon resp... ai Kon respetu yan saludu para todun taotao Guãhan. Fandaña' ya en na'palappa i banderan-miyu sa' hami giya Mariãnas in supopotta hamyo sientu put sientu put i direchon-miyu nai Manchamoru. Pues fanas... asonsiente kãnnai ya gof adahi na u mãktos. Na'fanmetgot hamyo. Put uttimos, in guaiya hamyo sa' si Yu'os en fangginiha mo'na. Ginen Luta, memorias." Pues ti hita na maisa esta manmalago' i mañe'lu-ta gi iya Notte Mariãnas... i Chamoron Luta, Tini'an, yan Sa'ipan para u fandaña' ya pa ta kontra. Ta kontra i federãles, i *US District Court* ni maseha hãfa para u ma cho'gue ni para u ma ãmot hit ni i direcho-ta yan i irensiã-ta. Hamyo hu gãgagao senadot, kontodu i maga'lãhi, yan i segundo maga'lãhi. Debi di un fandaña' ya un fanagotte kãnnai, yan na'siguru na, na metgot hamyo. Kana' hu, hu sotta todun i, i fuetsã-ku gi nigap sa' ti nahong maigo'-hu, sa' duru i fe... federãles ma... ma estototba hu'. Sigi ha' ma tattitiyi hu' gi chalan pat maseha mãnu para bai hãnao put, pat mãnu gaige yu'. Laña' na klãssen taotaotãgues. Kao magãhet na di... dimãkrasia enao?! Duda hu'! Ti hu hongge esta enao siha. Piot put i ma cho'gue enao put i hu sãsangan enao hãfa i minagãhet?! Ya hu po'lo siha, hu plãnta siha esta gi edda'. Hinasso-ña na ma... ma plãnta hu', ãhe'! Siha pã'go, ta guãddok i edda', ya ta tãtme, ya ta tãnom siha pãpa' gi edda'. Ta na'... ta hãfot siha pãpa'. Hinasso-ña na para u ma gobietna hit ya para siha para u dinesponi hit i Chamoru esta? Ti bai sedi enao. Ya hamyo gi mantakkilo', debi di

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un ekungok i taotao. Piot mismo i Chamoru! Sa' hita, hita i taotao tãno'. Ya esta bai sangãni hamyo anggen un nisisita ayudu ginen i taotao, achokka' Chamoru pat ti Manchamoru esta meggai manmahongge ni hãfa bidã-hu. Bai ågang siha ya bai in sangãni siha ngai'an yan mãnu ni un nisisita ayudu. Bai na'siguru na manggaige guenao yan maseha mãnu. Put hãfa, an pon prutehi yan pon difende i kottura yan i lengguãhi, i irensia, i hinengge, an i direchu. Pues esta bai sãngan sigi ha', duru i taotao manmañieñiente. Ya masangãngani hu' todú. Ya esta bai sãngan Tydingco-Gatewood, an esta mana'hãlom este i... iyo-ta *resolution* ni para bai in kontra hao... Adahi ha sa' ti bai in nanggan átman. Siempre bai in gaige ta'lo guenao gi kanton chãlan, gi kanton tãsi, gi otro bãndan i kotten-miyu sa' ben na'... fanna'ekungok hamyo na ti manossitan hit esta! Hãgu pon ekungok hit! Ti hita i Chamoru, i taotao tãno' bai in ekungok hao esta! Fanpatiki lai ni maseha para u sinangãni hit i taotao na ti put, ti nisisiãriu para ta ekungok este. I, i lai(n) i *ruling*-ñiha ni ma doseha. Cho'gue todú ni... gi asiñãt-miyu ni pon kontra este. Ya guãhu, bai gaige i fuetsa anggen un nisisita. Bai ågang i taotao. Esta manmakmãta. Ya po'lo, ta li'e', kao hãfa humuyong-ña este... Anggen mafa'tãya'... Achokka' ti un sangãni hu', lao esta siempre in ripãra na ma afa'tãya' hit. Bai in afa'tãya' siha tãtte sa' siempre bai in bira hit tãtte guenao. Ya pã'go na biãhi hu tungo' na siempre mãs meggai po fãtto. Hongge, sa' siempre bai sigi ha' bai kuentusi siha gi *FaceBook*, yan maseha i taotao para u sigi po a'akuentos ya ma na'tutungo' hit i hãfa i guaha. Eyu ha'.

English translation of Ned Pablo's testimony is attached.

Frank Munoz: Thank you vice speaker, Siñoras yan Siñot. Finene'na bai sangãni hamyo, mãtto yu' guini bai hu supotte, In support of uh, your Resolution 51 and 52 and everything else that has to... you know. Chamoru yu' by birth, finañagon Chamoru. Tumatachu yu' lökkue' sa' Nasion Chamoru yu'. Ti ma'ã'ñao yu' mãtai, ti ma'ã'ñao yu' mumu, lao bai pasensia ya hu e'ekungok i mañe'lu-ta guini manãmko', parehu ha' yan manhoben. Ya gos gaisensia hunggan, ah, manmañieñiente todú, everybody's feeling it nai, manmasiesiente sa' it hurts, it's like a betrayal, and uh, I'm all in support of all the testimony here ni mañe'lu-ta, our brothers and sisters nai. And especially uh, more power to my brothers and sisters who are here who are probably uh, in line for uh, in uh, our probably uh, possibilities of uh, standing and fighting for our uh, rights, our human rights. Anyway, uh, I wanted to, to let go a little bit of my, my feelings, my sentiments put si Dave Davis. I know Dave Davis. I know that he's a retired military man, hu tungo' ha' na ritirao. Ya desde ki eyi Chamorro Land Trust malingu ha', nu

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hinasso-ña nai. Uh, lao ha na'piniti yu' sa', he hurt me because he forgot one thing... That as we were working with the military and local, we had a very good relationship. Mânng'e' na, na, na, na inetnon. Sa' when they have problems up at the Airforce or in the Navy, manhâlom ham ni local and we were helping. We were working together to save their children, to save their enlisted men. Uh, I miss that; I love that. Hu gof guaiya ayu and that is our government and uh, and the, and the federal, the military side. We were hand in hand working together to help fix our problems. He really hurt me, and I don't care if he's listening. If he's listening, he better hear me out. You, you broke my heart Dave Davis! I feel you betrayed me because our primary objective in this island as Chamorros and people of this island is to help one another, to work together... Nobody is hungry... They... Now we have homeless, but we are all working together to fix this problem. He has nothing to do with that! He refuses to have anything to do with humanitarian acts! So he wants, if he wants to fight, we'll fight! I'm not saying guns and roses, but we have leaders that we elected to stand up and fight... with the governor, lieutenant governor, fifteen senators, and the majority support of the people of this island. Plus we have some uh, some legal counsels that are willing to uh, assist, which is all good. Thank you very much for giving me this time, and uh, more power che'lu. Saludu para hamyo todû! Biba Chamoru!

Dr. Rosa Palomo: In Support of the Resolution No. 51-34 (LS). Transcription of oral testimony attached.

Desiree Ventura: Hafa adai Senators. Si Yu'os Ma'ase for this opportunity to respond to this resolution, Therese thank you for introducing it. There's not much I can say that has not been said. I think everyone has said many of my feelings. But I can say that I'm here to offer my support for this resolution because I understand that independence in any way and form is an impediment to social justice and peace. Self-determination is the right of the colonized. It's not an opportunity for everybody who benefits from our repeated colonization to weigh in on our future and what happens to our island. That's not what it's created for. Self-determination is to restore justice. We cannot restore justice by asking our oppressor to fix it. It just doesn't work that way. And so I just want to remind everybody that when we vote against the right to self-determination, we actually vote for the continued marginalization of our Chamorro people and our culture. It's a vote for the further destruction of our land and our environment. Our people currently fall victim to the highest rates of poverty, violence,

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preventable diseases and imprisonment on the island. These problems are the result of systematic oppression through colonial structures that fail to fully recognize the presence and history of our people. We cannot restore justice by asking the people who created these structures to fix it for us. I don't have much to say except that I support this and I think it's important and I have to get back to work, and I have to pick up my baby. But thank you for this opportunity and just one quick thing I wanted to say is thank you for your patience and I know it's really easy sometimes to dismiss messages and activism when it's not packaged in ways that our comfortable to us or ways that seem inappropriate. Or even un-cool but that's an easy, lazy way to be and I really ask that instead of paying attention to the packaging that we focus on the truth of the messages embedded within those pleas to be heard. I'm very grateful for all of you so thank you very much.

Shannon McManus: Ungil Kebesengei, Hafa Adai senators and vice speaker. My name is Shannon Kedei McManus Im the daughter of Steven Camacho Castro Familian Loddo from the village of Chalan Pago, and Andresina Obak Sengebau from the hamlets of Ngaraard and Peleliu in the Republic of Belau. I am here as a daughter of Micronesia to stand in solidarity in support of both bills with the self determination plebiscite and with The Chamorro Land Trust. My fathers family along with many Chamorros who suffered and continue to suffer displacement in their own home has yet to receive land since applying in 1995. My mothers family is a different story of displacement and immigration post WWII. She has invested her life here as an educator but she has made it adamantly clear that this plebiscite is not her right or the right of the non-Chamorros. We celebrate our independence as a Palauan community every year here in Guam as well as our Filipino Kababayans, while our Chamorro people celebrate Liberation or rather our recolonization by the US. The people of Belau had their turn and made their choice. It's the Chamorro people right and your duty to uphold that right. So we thank you for taking up this cause. I just wanted to read something that I think reflects today's gathering. This is a poem by my grandfathers brother, Palauan author Valentine Sengebau. It's called Microchild. Si Yu'us Ma'ase and Ke mal mesulang.

Poem entitled Moonchild is attached.

Alissa Eclavea: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

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Chairperson Terlaje: Thank you, Everyone, for coming and staying and waiting for your chance to speak on the resolution.

The next agenda item, Resolution No. 52-34 (LS) was heard.

The public hearing was adjourned at 2:36 PM.

III. FINDINGS & RECOMMENDATIONS

The Committee on Culture and Justice hereby reports out Resolution No. 51-34 (LS) - RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM, to *I Mina'trentai Kuáttro na Liheslaturan Guåhan*, with the recommendation TO DO PASS.

I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUAHAN
2017 (FIRST) Regular Session

Resolution No. ~~58~~⁵¹-34 (LS)

Introduced by:

Therese M. Terlaje ^{MS}

**RELATIVE TO SUPPORTING THAT THE
GOVERNMENT OF GUAM MOVE FORWARD TO
APPEAL THE RULING OF THE DISTRICT COURT OF
GUAM TO ASSIST IN DEFENDING THE RIGHTS OF
THE NATIVE INHABITANTS OF GUAM.**

1 **BE IT RESOLVED BY *I MINA'TRENTAI KUATTRO NA***
2 ***LIHESLATURAN GUAHAN*:**

3 **WHEREAS**, the government of Guam should move forward and appeal the
4 ruling of the District Court of Guam, Davis v. Guam, Civil Case No. 11-00035, in
5 defending the rights of the native inhabitants of Guam; and

6 **WHEREAS**, the people of Guam have waited many years to be heard and their
7 voices should not be minimized or lessened, as this ruling attempts to accomplish;
8 and

9 **WHEREAS**, the native inhabitants of Guam are entitled to their right to self-
10 determination; and now, therefore, be it

11 **RESOLVED**, that *I Mina'trentai Kuattro Na Liheslaturan Guahan* does hereby, on behalf of
12 *I Liheslaturan Guahan* and the people of Guam, support that the government of Guam move forward
13 to appeal the ruling of the District Court of Guam to assist in defending the rights of the native
14 inhabitants of Guam; and be it further

ZUI/NAK - Y PM 4: 35

1 **RESOLVED**, that the Speaker and the Legislative Secretary attest to, the
2 adoption hereof, and that copies of the same be thereafter transmitted to the Honorable
3 Elizabeth Barrett-Anderson, Attorney General of Guam; and to the Honorable Edward
4 J.B. Calvo, *I Maga'lahaen Guåhan*.

DULY AND REGULARLY ADOPTED BY *I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN* ON THE ____ DAY OF MONTH YEAR.


Friday, 17 March 2017

"CHamoru must stand up, ga'chong" -Island leaders challenge local lawmakers


Written by Timothy Mchenry (</local/author/9200-timothy-mchenry>)


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the hearing was held at the Guam Congress Building.

Guam - It's an issue that has captured the hearts and minds of CHamorus across the island. The recent Davis decision has sparked daily protests everywhere, from the District Court of Guam to the Guam Congress Building. Friday, dozens of Guam residents testified in front of lawmakers to bring to light what they call years of oppression and unfair treatment of the CHamoru people.

It's an issue that has been thrust back into spotlight after Chief District Court Judge Francis Tydingco-Gatewood ruled that the guidelines for which the plebiscite was created are discriminatory in nature. Friday, dozens of community members testified on a pair of resolutions, both debating whether or not legislature should support an appeal in the Davis case and for approval from the Guam Legislature and the governor of Guam before possibly entering into a consent decree with the Federal Government over the Chamorro Land Trust Act.

Young men's league of Guam President Bob Pelkey, was first to take the stand. Pelkey affirmed the YMLG's position supporting an appeal to the highest court.

"My brothers are here to remind anyone and everyone listening that the Indigenous CHamoru people have suffered from historical injustices spanning centuries and that the ruling by the U.S. District Court of Guam is another straw upon the back of our colonized people. Further, the threat by the United States Department of Justice is but a splinter in the eyes of our people who toil day in and day out to sustain a living and live in peace to many, love and raise a family free of political interference and imperial oppression," says Pelkey.

Gatewood ruled earlier this month that Dave Davis, a non-native, non-Indigenous CHamoru was discriminated against by not being allowed to participate in the plebiscite vote, a political demonstration given to native inhabitants of people who were living on Guam at the time congress created the organic act. The plebiscite is intended to allow native inhabitants of Guam to choose Guam's political status with the us-free association, independence, or statehood. As Pelkey stated earlier and Vicente Garrido reinforced, the Davis decision is an example of the unfair and often uneducated treatment of the CHamoru people at the hands of the united states government. Garrido's statements along with many others captures the angst felt by members of the community regarding recent actions by Guam's local court and the us government.



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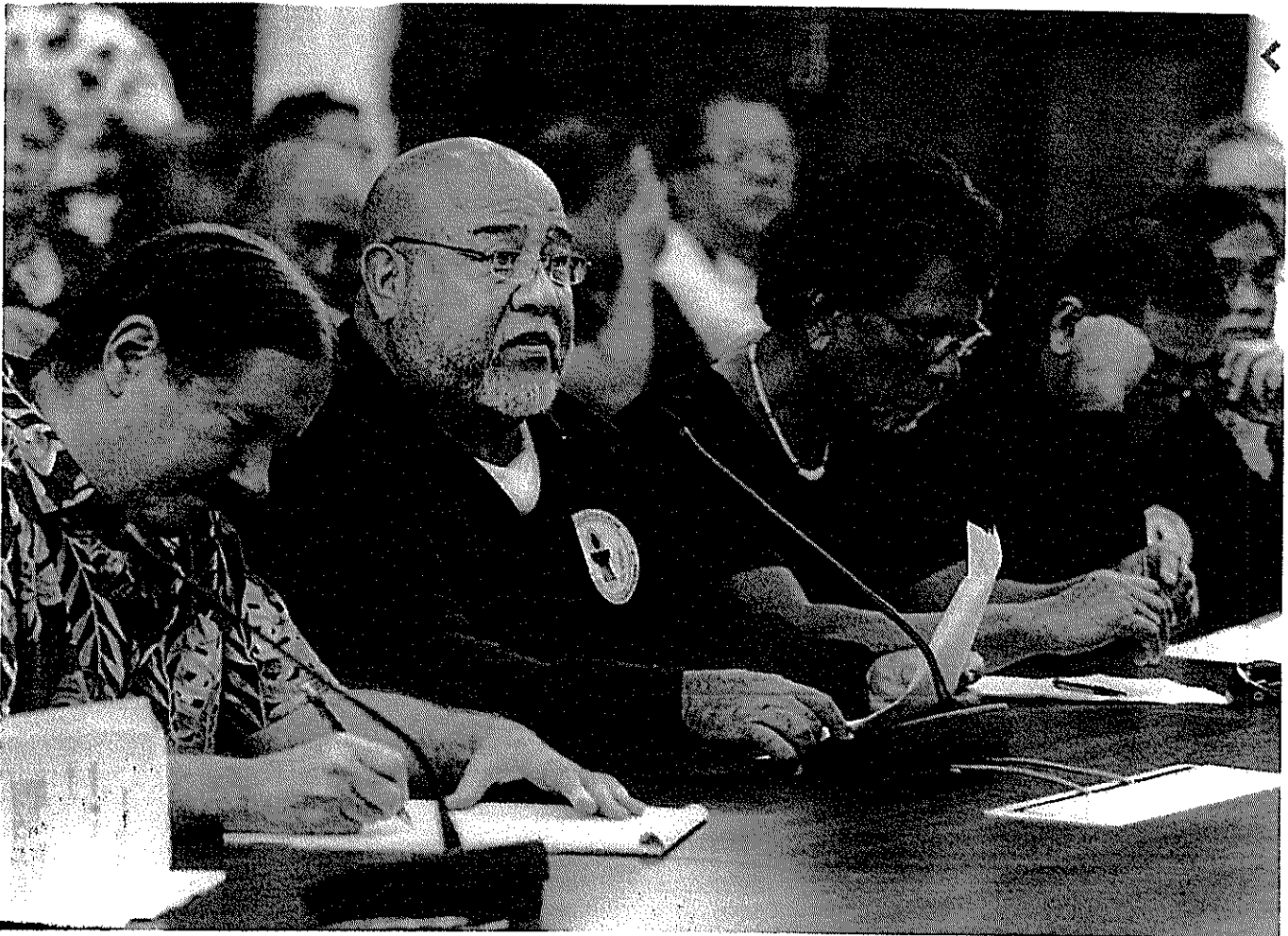


https://www.postguam.com/news/local/testimony-we-will-fight/article_43c8fbf4-0abf-11e7-830a-f33c34b8919c

Testimony: 'We will fight'

Legislature votes on plebiscite and land act resolutions

John O'Connor | The Guam Daily Post Mar 18, 2017 Updated 14 hrs ago



INDIGENOUS RIGHTS: Bob Pelkey, second from left, testifies during a public hearing on indigenous voting rights before the 34th Legislature, Friday, March 17. Norman M. Taruc/The Guam Daily Post

After hours of deliberation and with an impromptu late-night session, lawmakers yesterday vote

adopt resolutions 51-34 and 52-34. The vote came just a few hours after a public hearing on both resolutions, which stemmed from recent developments regarding self-determination and Chamorro land rights.

Vice Speaker Therese Terlaje introduced the resolutions at the conclusion of the March legislative session, shortly after Chief Judge Frances Tydingco-Gatewood of the District Court of Guam ruled that Guam's plebiscite law was race-based and therefore unconstitutional. The judge's ruling followed the U.S. Department of Justice's notice in January that it found the Chamorro Land Trust Act discriminatory in nature. The DOJ used similar arguments regarding racial preference.

Resolution 51 intends to express support for an appeal of the District Court plebiscite ruling, while Resolution 52 would support holding off on entering a consent decree regarding the Chamorro Land Trust Commission without first gaining approval from the legislature and governor. The Justice Department offered the government of Guam the chance to enter into a consent decree to avoid getting sued in federal court over land trust policy.

Resolution 51 passed unanimously with Sens. Tom Ada, Michael San Nicolas and Speaker Bernabe Cruz excused. Sen. Mary Torres was the sole opposition vote to Resolution 52. Torres had raised some concern earlier in the evening as to the urgency with which the legislature was moving forward with the resolutions, remarking that the public hearing had occurred just hours before and the bill had difficulty reaching its legal counsels for advice.

Residents raise concerns

Activists, former senators and everyday residents testified before legislators for nearly five hours yesterday morning and afternoon in a culmination of anger, support and spontaneous recitals of Inifresi and Fanohge Chamorro as a matter of expressing respect for Guam and the rights of its indigenous people.

Former Sen. Hope Cristobal, who authored Guam's decolonization commission and Chamorro registry laws in the late 1990s, stated that the U.S. government continued to fail the people of Guam. She said that while taking the issue through the U.S. justice system would likely lead to more disappointment, Cristobal said it was still necessary to see local leaders take a firm stance on these issues.

"We will fight because that is what gives us hope," Cristobal said.

Attorney Michael Phillips, who played a role in the implementation of the Chamorro Land Trust, said he believed these matters should still be pursued in court, despite the likely chance of failure. He added that local leaders should also urge Congress to take up these issues for Guam because Congress has ultimate authority over the territory, and an act from Congress would likely not fall so easily to judicial scrutiny as an act from local lawmakers.

He also urged senators to support the government in holding off on a consent decree regarding CLTC because a decree could be used against Guam's interest in the future.

In a release issued after the public hearing, Gov. Eddie Calvo said he had no intention of engaging in a consent decree to resolve potential legal liability with the Justice Department regarding the CLTC. Calvo said his administration would be working with Attorney General Elizabeth Barrett-Anderson to determine available options, which would also be discussed with the Legislature. He also urged cooperation between his administration and the Legislature, despite differences in other matters.

John O'Connor

Reporting on utilities, healthcare, education and other topics.

Chamorros express support for federal-challenge resolutions

Shawn Raymundo, sraymundo@guampdn.com 5:34 p.m. ChT March 17, 2017



(Photo: PDN file photo)

Emotions ran high during a public hearing Friday morning at the Guam Congress Building, where Chamorro residents criticized a federal court decision that states the island's proposed political status plebiscite is unconstitutional.

Dozens of residents attended the public hearing to testify in support of a pair of legislative resolutions, calling for Guam to appeal the federal ruling.

Vice Speaker Therese Terlaje introduced the resolutions, the first of which – [Resolution 51-32](http://www.guamlegislature.com/COR_Res_34th/STATUS%20Res.%20No.%2051-34%20(LS).pdf) ([http://www.guamlegislature.com/COR_Res_34th/STATUS%20Res.%20No.%2051-34%20\(LS\).pdf](http://www.guamlegislature.com/COR_Res_34th/STATUS%20Res.%20No.%2051-34%20(LS).pdf)) – urges

Attorney General Elizabeth Barrett-Anderson to appeal the District Court of Guam's ruling to strike down the plebiscite law that limits voter participation to native inhabitants.

[Resolution 52-34](http://www.guamlegislature.com/COR_Res_34th/STATUS%20Res.%20No.%2052-34%20(LS).pdf) ([http://www.guamlegislature.com/COR_Res_34th/STATUS%20Res.%20No.%2052-34%20\(LS\).pdf](http://www.guamlegislature.com/COR_Res_34th/STATUS%20Res.%20No.%2052-34%20(LS).pdf)) also asks Barrett-Anderson to challenge the U.S. Department of Justice's claims that Guam's Chamorro Land Trust lease program is discriminatory against other races. It states that GovGuam should not enter into any agreements without approval from the Legislature and Gov. Eddie Calvo. The Chamorro Land Trust holds public land for the benefit of the island's indigenous Chamorros, who are allowed to receive low-cost, long-term leases for residential and agricultural use. The Land Trust also leases some of the land commercially to generate revenue for programs to benefit the Land Trust.

"The plebiscite is not a public issue, this is a human rights issue," Dededo resident Vicente Garrido told lawmakers.

The plebiscite vote, which has been delayed several times since the late 1990s, would determine the island's preferred political status with the U.S. government – statehood, free-association or independence.

Last week, in response to a legal challenge by non-Chamorro resident Arnold "Dave" Davis, Chief Judge Frances Tydingco-Gatewood ruled the plebiscite law is unconstitutional and violates the 15th Amendment because it imposes race-based restrictions. The Guam Election Commission has stopped allowing people to register for the Guam Decolonization Registry, which is a list of eligible voters for the plebiscite.

Robert Leon Guerrero Benavente, 64, said he's a veteran who's gotten too old for this type of thing.

"It's only us that can fix the problem," Benavente said, adding: "We must work together."

Bob Pelkey president of the local group Young Men's League of Guam, criticized the recent court ruling and the DOJ's charge against the Chamorro Land Trust program, noting that Guam's native Chamorro inhabitants have suffered from colonial rule for centuries.

"My brothers are here to remind everyone and anyone listening that the indigenous Chamorro people have suffered historical injustices spanning centuries and the recent ruling from the District Court of Guam is yet another straw upon the backs of our colonized people," said Pelkey. "Further, the threat by the U.S. Department of Justice is another splinter in the eyes of our people who go day in and day out to sustain a living. To live in peace, to marry, to love and raise a family free of political interference and political oppression."

Piti resident Jamela Santos, 39, is a Filipina born and raised on Guam.

"I have called Guam my home. I have left home and I have returned home. Guam is the only place I know as home," Santos said.

"And even though I breathe the air I breathe; eat foods from the rich soil of this blessed land; drink of the waters; swim in the ocean abundant with life, even though my existence today is shaped and supported and nurtured by Guam, my home, I do not claim any identify as Chamorro, or as a native inhabitant," she added. "That is not for me to claim."

Santos objected to Davis' argument that his rights were violated because the law wouldn't let him participate in the political status vote.

"As a person of Filipino ancestry who calls Guam home, I do not feel that my rights are being violated because I cannot participate in the political status plebiscite," she said, adding, "This vote is not for me. It's for my Chamorro brothers and sisters, mothers and fathers, nanas and tatas."

[Election Commission closes Decolonization Registry](#)



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Dozens voice support for appeal of federal court ruling

Posted: Mar 17, 2017 4:17 PM

Updated: Mar 17, 2017 4:18 PM

By Ken Quintanilla [CONNECT](#)

More than a week after District Court decision that ruled a native-inhabitants only plebiscite is unconstitutional, dozens of island residents came out packs to the Guam Legislature to support efforts for an appeal. Public outcry and passion against a recent decision by the US District Court of Guam made its way to the Guam Legislature Friday.

"We don't vote on our decolonization every two years," said former senator Hope Cristobal. "It's once in the lifetime of a people, it's a people's right - not an individual right, it's the people's right!"

Last week District Court of Guam Judge Frances Tydingco-Gatewood ruled in favor of plaintiff Arnold "Dave" Davis that a native inhabitants only vote would impose race-based restrictions on the voting rights of non-natives, in violation of the 15th Amendment. Today a hearing was held on Senator Therese Terlaje's Resolution 51 - expressing support for its appeal.

Bob Pelkey is the president of the Young Men's League of Guam, the region's oldest Chamorro fraternity. "My brothers are here to remind anyone and everyone listening that the indigenous Chamorro people have suffered from historical injustices, spanning centuries and the ruling by the US District Court of Guam is another straw upon the back of our colonized people," he said.

And while she's not Chamorro, Jamela Santos says Guam is the only home she knows. She says with her Filipino ancestry, this vote's not for her adding she doesn't feel her rights are being violated because she can't participate in the political status plebiscite. "It's okay, I stand by you. I want you to be able to say how you wish to govern yourselves, make rules that make sense for you again because those were taken away from you against your wishes," she said.

Attorney Mike Phillips played a role in getting the Chamorro Land Trust implemented in 1995. While he told senators he didn't think they'd win the Davis case, he does believe not pursuing an appeal will have serious ramifications. "From everything that I've seen in my lifetime, and everything I've read, under that system, the more likely path to success is through the Congress," he said. "It's not for the faint at heart, it can go on and on."

And while he says it'll be a difficult path, others like Cristobal says they must not give up. "They have now perpetuated a racist, a discriminatory act on us. The US has failed us and will continue to fail us, but we must not stop fighting."

Acting Speaker Therese Terlaje called lawmakers late today to vote on Resolution 51 along with Resolution 52 regarding the recent threatened lawsuit proposed by the US Department of Justice over the Chamorro Land Trust Act.

2 Comments

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Chelu Cruz

And at the end of the day what does all this get us? Do we get to be more free? Do we get to think more independently? Do we get to sit around more all day or work our butts off more? Do we get to travel more when and wherever we want? We already have all that. If the US Congress gave us what we want would we be more free think more independently work harder or sit around travel more? Nope, nothing will change. Guam offers the US a strategic location, a buffer zone for Hawaii and the West Coast. That's what we offer the US. What does the US offer us? Freedom, independence, ability to work and earn a living, travel and countless more benefits we do not appreciate because we take it for granted. I am happy just the way we are. Heck we could be like Chuuk or Yap. I have lived there and although its nice for awhile, I miss the air conditioning, US steaks, ability to earn a good wage and the freedom to fly wherever I want. Think about it long and hard. On Guam, we have it pretty darn good. What messes us up is our political leadership, corruption, lack of respect for each other and the environment. Think long and hard. What some think is independence works well in the academic environment. But in the real world, it will fall flat on its face. I have and will always vote in favor of keeping Guams political status exactly where it is. I am not the only one, thousands will vote the same way.

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...production, which is over the northern water lens. "The issue is the hazardous material that may seep into the ground over time and affect the northern aquifer, which supplies our drinking water, the water we shower in," Lee said. He thanked the list of at least six government agencies... More

Family of murdered woman wants \$103K in restitution from Keith Garrido

Garrido is serving life behind bars with the possibility of parole after 25 years for three convictions, including the murder of 63-year-old Nancy Mafnas.

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GCC international competition teaches students everyday importance of math

Over 400 students participated in the Guam Community College Math Kangaroo international competition today. The event is geared toward students from first through twelfth grade and aims to not only teach math skills, but apply them to fun and everyday activities. GCC education department chair Marsha Postrozniv explained, "It's a national competition, and then we kind of want to treat the students after taking the test to a free carnival. But the carnival is math themed, so...



Rick Perez

BBK. News: NI Anderson's Cooper's Washington Post Honolulu Civil Beat The Guardian

Core Issue: Human & Political Rights suppression unto the Chamorro people from Guam Mariana Islands

It is clear that many Chamorros including myself view these recent legal developments as yet another systemic betrayal towards the Chamorro people of Guam from in this case the American judicial system when it comes to having the opportunity to seek political self-determination or attain authentic political voice and political power within the context of congressionally produced statutes that govern the restraints and constraints of islanders since 1950. Before 1950 Chamorros were under naval martial law which began in 1899 and our wartime occupation was historic in that we were the only population having to endure capture by a foreign adversary.

Social media tied to this Issue shows a host of views but the public conversational wrestling must continue and needs to continue in order that the Chamorro people find lasting justice and a corresponding systemic peace on our terms as much as is possible.

The Chamorro people of Guam have enormous potential power and say in governing their own affairs and seeking justice present day and it is partly a matter of decolonizing our minds and putting aside any unreasonable fears.

We are moving in the right direction and political will a unity of effort and clarity of purpose are needed.

But all angles of every element in the debate must be aired and considered because while many view these recent legal developments as another slap in the Chamorro face Davis does have the right under the current system to sue and the District Court of Guam Judge Frances Tydingco Gatewood was simply doing her job no more, no less. In my opinion we must respect the process.

The system has however placed severe structural limits on seeking authentic democracy for the Chamorro people of Guam and the circumstances in which this arose historically informed how the unilaterally produced congressional bill was shaped it is colonial by all measures in form process and outcome.

Yet I respect the system. The system does however provide clear advantage for those who have come to Guam after the Organic Act was put into place and security restrictions were lifted in 1962 and Chamorros have suffered great historical injustices and populational trauma and catastrophe under colonialism before the Organic Act was put into place and there is hope that justice institutional justice will prevail for the Chamorro people.

It will be hard fought and should be fought every step of the way.

test to a free carnival. But the carnival is math-themed, so...



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Health Headlines



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restrictions were lifted in 1962 and Chamorros have suffered great historical injustices and populational trauma and catastrophe under colonialism before the Organic Act was put into place and there is hope that justice Institutional Justice will prevail for the Chamorro people

It will be hard fought and should be fought every step of the way

The administering power led by President Truman did not think through all the implications of producing and passing an Organic Act over time nor did the White House at the time understand fully the sense of betrayal and powerlessness and resentment and frustration and confusion that the Chamorro people of Guam felt from September of 1944 up through 1950 and beyond

English language and Chamorro language gaps and understandings did nothing to assuage the stress felt by the Chamorro people

Focus by the administering power the colonizer was placed squarely on the strategic importance of Guam within the context of the overall national security desires of the United States winning Micronesia from World War Two battles for these Japanese administered islands and fear of Soviet gains regarding the nuclear arms race

Cabinet representation at the Departments of State Defense and Interior failed in one aspect that aspect was to fully include in all steps of deliberation and negotiation equal input robust debate and equal decision making powers for the Chamorro people of Guam without continual on the ground naval interferences and populational restrictions and arbitrary standards and rules put into place by the navy

Guam remains of immense geo-political value to the Pentagon and the national security services and homeland security communities because of the island's location in the western Pacific Guam is also home to a politically colonized people and colonization has greatly impacted both the Chamorro people and it has greatly impacted elements of the U.S. federal government that have derived use from Congress owning Guam.

Let the public conversation continue and appeal the District Court of Guam ruling because Guam is our homeland, an ancient space that was not even fully debated in the United Nations at the time when the United States was in negotiations with the U.N Security Council. The scope of discussion at the time was tied to the Trust Territories only. Talks were also strictly limited for U.N Security Council deliberations without islander input because of the "strategic area" designation agreed upon by its membership with U.S. support and sponsorship. Debates on Guam and Micronesia did not take place at any level within U.N. General Assembly sessions.

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Election Commission closes Decolonization Registry

Shawn Raymundo, sraymundo@guampdn.com Published 3:56 p.m. ChT March 16, 2017 | Updated 16 hours ago



(Photo: PDN file photo)

In light of last week's federal court ruling that struck down Guam's plebiscite law, the local election office has stopped registering native Chamorro inhabitants for its Decolonization Registry.

Since 2002, the Guam Election Commission has worked to register Guam's native inhabitants to participate in the plebiscite vote, which was repeatedly delayed and would have quantified the island's preferred political status with the U.S. government — statehood, free-association or independence.

The local law limited voting in the plebiscite to individuals who met the legal definition of Chamorro — those who became American citizens through the Organic Act of Guam in 1950.

Arnold "Dave" Davis, who is neither legally nor ethnically Chamorro, first challenged the local government's proposed plebiscite in 2011. He argued the law is discriminatory on racial grounds.

The District Court of Guam sided with Davis' argument last week, ruling it's unconstitutional to limit voters to participate in an election based on race.

The Election Commission ceased efforts to sign up Guam's native inhabitants for the registry, which contained more than 13,200 individuals, according to GEC Director Maria Pangelinan. While local officials, including elected Attorney General Elizabeth Barrett-Anderson, are considering an appeal, Pangelinan said her office is following the letter of the law.

"That's what our mandates say now, based on the court ruling," she said. "So, if that changes, then we change with it."

Pangelinan said the Election Commission had been in the process of cleaning up the registry by eliminating duplicates. They hadn't removed any of the deceased from the list yet, as that would have occurred when the plebiscite was officially scheduled.

"We've been in the process of cleaning that list up. We've been looking at duplicates, been looking at incomplete applications," Pangelinan said. "We haven't done a final go-through, I guess. We were still in the final stages of cleaning up."


Pangelinan said that at times it was tough getting native Chamorro residents to sign up for the registry because many didn't know much about the plebiscite.

"What I've experienced is that people don't know enough about it, that's one. So, they don't want to register because they're thinking is 'We'll lose our citizenship or military ID,'" she said. "Secondly, the plebiscite has not been scheduled, so people say, 'Why register if there's not going to be a plebiscite?'"

[Judge: Plebiscite law unconstitutional; AG may appeal](http://www.guampdn.com/story/news/2017/03/08/judge-arnold-davis-plebiscite-law-unconstitutional/98888880/)

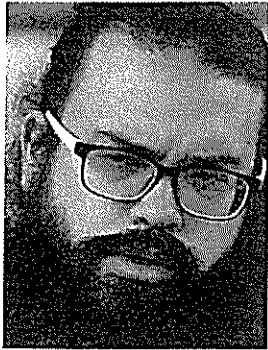
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Bevacqua: Decolonization never easy or fair

Michael Lujan Bevacqua, For PDN 1:28 p.m. ChT March 16, 2017



(Photo: PDN file)

Judge Frances Tydingco-Gatewood's decision last week in favor of Dave Davis and against the rights of Guam's indigenous people was not surprising. For those familiar with the U.S. court system, it has long been designed to take rights away from indigenous people of the U.S., and instead develop nonsensical, self-serving arguments that force incorporation of the indigenous people and their lands/resources into the union.

For your average federal judge, the particularities of Guam's status or the quest of Chamorros for decolonization are trivial and mean little. As a Chamorro herself, we might have hoped that Tydingco-Gatewood would have taken this decision as a chance to expand American notions of justice.

This would mean to take seriously its history and its contemporary responsibilities as a colonizer, and simply follow its obligations as a signatory to the United Nations charter. To also take seriously the notions that the U.S. and its court system are based on issues of justice or liberty, and what that would mean in terms of how to guide the decolonization of the sites of American-made injustice and liberty deprived in the name of American interests.

She had a chance to make a very courageous intervention into a web of legal decisions that has long been hostile to indigenous people, Chamorros included — to make her decision in the name of American ideals that people often speak of proudly but are suddenly rare and impossible to find when the territories are concerned.

Tydingco-Gatewood instead chose to act like nearly all her brethren of the U.S. court system might, to simply erase the indigenous people, their rights and pretend that the answer to American colonialism, is more American colonialism.

Táya' tininas na chálan gi hilo' táno'. For indigenous people in the United States and other countries, this is sadly the way our tale tends to unfold. The struggle for justice in the name of self-determination or decolonization is never straight, clear or fair. Part of the reason is because our fights take place within legal systems that are built on indigenous injustice and rife with delusions of American exceptionalism and sinlessness.

These court systems and the decisions that comprise them are mazes. They are created through convoluted, often insane legal paths, the blazing of which result in the sovereignty of an indigenous people disappearing and only objects of American power remaining.

Almost two centuries ago, the infamous Marshall Cases represented one such magical maze. Native American tribes went into those legal cases as independent nations, recognized through the U.S. Constitution and various treaties, but were under assault by those wishing to displace them or possess their lands. When those same tribes emerged, their sovereignty and rights had been lost in the legal labyrinth and henceforth the U.S. court system has referred to them as domestic dependent nations.

This is a familiar, cruel and degenerative alchemy, where the precious inalienable right to self-determination or sovereignty is transformed into dead weights meant to further chain the indigenous people to their colonizer.

The more a country is convinced of its greatness, the more difficult it is for its colonies to be decolonized in any meaningful way. Decolonization, in order to mean anything, requires an admission that a possession and the indigenous people attached to it demand or deserve more than what the colonizer is willing to give.

It is a process that should not be controlled by the colonizer, as such amounts to continuing colonization. It should not be something that must follow the rules of the colonizer, as that as well simply means further colonization.

Michael Lujan Bevacqua is an author, artist, activist and assistant professor of Chamorro studies at the University of Guam.

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DOJ: Chamorro Land Trust law is race-based discrimination

Gaynor D. Daleno | The Guam Daily Post 6 hrs ago

Government of Guam land-use law and programs available only to "native Chamorros" discriminate based on race or national origin, according to a new notice from the Department of Justice following a years-long investigation.

"This letter is to inform you that the Department of Justice has completed its investigation and the principal deputy assistant attorney general for the Civil Rights Division has authorized the filing of a complaint in federal district court against the government of Guam, the Chamorro Land Trust Commission, and its administrative director," Vanita Gupta, principal deputy assistant attorney general for the Civil Rights Division, wrote to the Calvo administration on Jan. 13, shortly after the Trump administration took office.

Air Force veteran Arnold "Dave" Davis, a resident of Guam for decades, said he first filed a complaint with the Justice Department over the Chamorro Land Trust Commission's policies after he was denied his application for the lease of CLTC land.

He called some of Guam's laws and policy giving preference to native Chamorros "institutionalized discrimination."

He first called GovGuam's attention to the issue in a letter to the Office of the Attorney General in October 2003, in which he mentioned that a multi-ethnic group of Guam residents had questioned "the exclusionary and race-specific provisions of the Chamorro Land Trust Act."

When Davis couldn't get the local government to change its policy, he said he turned to the Justice Department about eight years ago.

And after having been in touch with DOJ for almost five years, and still not seeing action from Washington, he said he thought the issue went cold.

And recently, he received a phone call that revived his hope that Guam laws would change via the federal government's intervention.

A third of the island denied CLTC rights

“What prompted this was a recognition of the fact that more than 60,000 residents in Guam, who are U.S. citizens, are denied rights under the Chamorro Land Trust Act,” Davis said. That's more than a third of the island population.

The U.S. Department of Justice's Civil Rights Division, in the notice, gave the government of Guam until Jan. 31 to respond whether the local government would be willing to enter into pre-lawsuit negotiations in an effort to resolve the matter expeditiously, in the form of a court-approved consent decree.

The Guam AG's office on Tuesday acknowledged it is aware of the letter, but it is unclear from the governor's office if a response was submitted to DOJ by the Jan. 31 deadline.

To stave off a lawsuit, the local government must, at a minimum, provide for relief “addressing the specific violations and preventing future violations” of federal housing laws, including lease of land, that discriminate based on race or national origin, according to the Justice Department.

It's discriminatory and in violation of federal law when Guam law limits certain housing-related benefits “to persons who are ‘native Chamorros,’” according to the Justice Department.

Gaynor Daleno

https://www.postguam.com/news/local/gec-halts-registration-for-plebiscite/article_2005ad70-0943-11e7-bc42-8328cc99e118.html

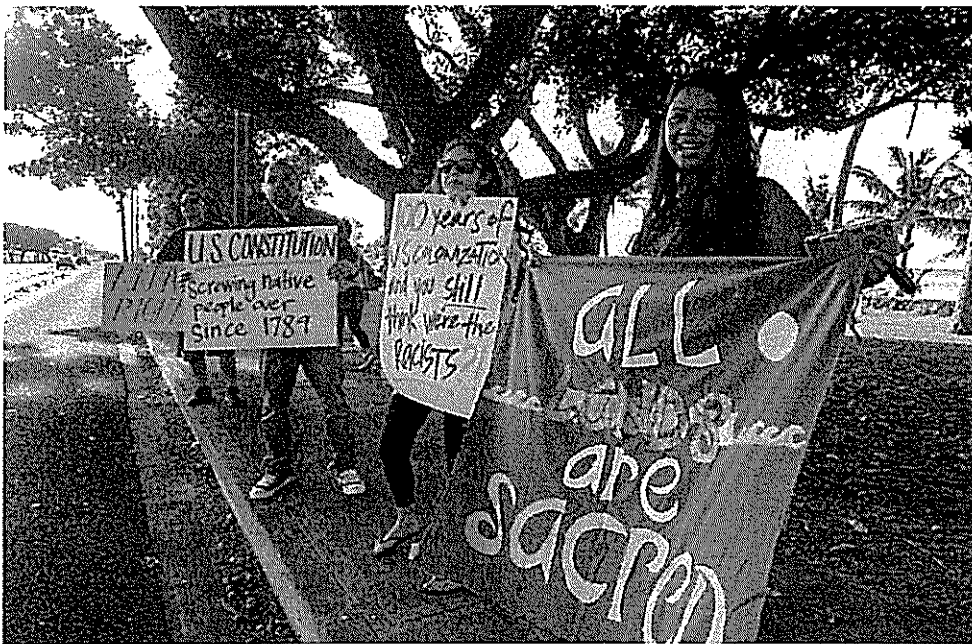
GEC halts registration for plebiscite

John O'Connor | The Guam Daily Post 5 hrs ago



PROTEST: Ned Pablo and Jayton Okada waved a Guam flag to protest the recent decision declaring the political status plebiscite unconstitutional. A Chamoru Rights Decolonization Solidarity Rally was held across from the District Court of Guam, Wednesday, March 15. David Castro/The Guam Daily Post

Gallery: Chamoru protest



SINCE 1789: Dozens of people came out to protest the recent decision declaring the political status plebiscite unconstitutional. A Chamoru Rights Decolonization Solidarity Rally was held across from the District Court of Guam protesting the recent decision, Wednesday, March 15. David Castro/The Guam Daily Post

As part of the U.S. District Court ruling that stops the local government from enforcing Guam's plebiscite law, the Guam Election Commission has ceased registering voters for a plebiscite on the advice of its legal counsel.

The legal counsel also advised the commission to stop spending public funds related to its duties under the plebiscite statute.

GEC Executive Director Maria Pangelinan told The Guam Daily Post that the commission has sent memos to all agency and department heads informing them that their respective decolonization registrars are to turn in their registration forms. Names that are already on the registry will be maintained, she added.

Attention from different sources

The commission's actions followed the March 8 decision rendered by District Court Chief Judge Frances Tydingco-Gatewood. Air Force veteran and longtime resident Arnold "Dave" Davis challenged the plebiscite statute years ago because the "native inhabitant" requirement barred him from taking part in the political status vote. Tydingco-Gatewood found the law to be race-based and in violation of the U.S. Constitution.

"The Decolonization Registry is central to the law that has been enjoined, and there's no need for any further plebiscite registration. Any Guam registered voter is now automatically eligible to vote in any Guam election, including a political status plebiscite," Davis told the Post in response to GEC's announcement.

The local reaction to the ruling has been mixed. While agencies attempt to comply with the decision, the governor intends to continue with a political status vote that would be inclusive of all residents, regardless of ancestry.

The governor did propose a dual ballot that separates the non-native voters' ballots from the indigenous residents' votes.

Some stakeholders, such as freshman Sen. Fernando Esteves, found themselves at odds with opening up the vote to all residents, noting it was meant to give the native residents of Guam a voice amid the island's colonial past.

But the plebiscite ruling has drawn some international attention as well. Publications such as the National Review and Washington Examiner have characterized the plebiscite statute as racially driven, and a clear violation of the U.S. Constitution that had been reversed by a single man fighting for more than half a decade.

"When I say Constitution, I mean the Constitution of the United States," said Adrian Cruz, chairman of the Decolonization of Free Association. "Really that's kind of an insult to the native inhabitants of Guam because the Constitution wasn't taken into consideration when they made the native people of Guam U.S. citizens by the Organic Act."

Considered an insult to the native people

Cruz was part of more than two dozen people protesting the plebiscite ruling directly across the street from the U.S. District Court in Hagåtña yesterday afternoon. The group, displaying the Guam flag and political signs, had originally congregated closer to the steps of the court, but was asked to move by federal officials, Cruz said. The protest was a spontaneous development organized by resident Ned Pablo, who placed the call on social media.

"We're going to call out the leaders, and if they don't come, then we call them cowards," Pablo told the Post as he rallied protesters and waved at passersby.

The full extent of the fallout from the court's landmark decision will likely remain unknown at the end of a single protest or with the actions of a single agency. The Commission on Decolonization is anticipated to meet this month to discuss a potential date for the new status vote and the cessation of the decolonization registry. Moreover, a resolution supporting an appeal of the court's decision currently sits in the legislature with a public hearing scheduled for Friday.

The inability of the native people of Guam to engage in self-determination is an insult to their basic human right, Cruz said. This right did not come from any government, but from peoples' "creator," he said. Whatever direction comes from such determination is better than Guam's current status, he added. The island, as a U.S. territory, lacks voting representation in Congress and is unable to vote for president. This inequality extends to all residents

of Guam, regardless of ancestry, and is unfair to those from Guam who died fighting wars with other American citizens, Cruz said.

"Our blood is just as expensive as anybody else's blood in the mainland, and we should be afforded the same rights and prerogatives as people there as well."

Ron McNinch, a political commentator and an associate professor at the University of Guam, said although Guam residents are offered three political status choices – full integration, which many in Guam call 'statehood'; free association with the United States; or independence from the U.S. – there are realistically only two ways to go.

"There are only two directions Guam can go: toward the U.S., including status quo; or away from the U.S.," he said.

If Guam wants to move away from the U.S., this means giving up the passport and U.S. citizenship, he said.

He's surprised at the protest against the judge's decision.

"Judges are the most respected and trusted public officials on Guam," McNinch said. "Protesting against a judge for making an objective ruling simply shows just how detached many are from the reality voters on Guam live with."

John O'Connor

Reporting on utilities, healthcare, education and other topics.

https://www.postguam.com/forum/editorial/election-commission-s-decision-to-stop-registration-of-voters-for/article_a732d70a-0952-11e7-8073-438e2d72d75d.html

Editorial

Election commission's decision to stop registration of voters for plebiscite a good call

Daily Post Staff 4 hrs ago

The Guam Election Commission did the right thing – to be on the legal safe side – by suspending the registration of additional voters for a plebiscite that a federal judge has ruled unconstitutional and race-based.

The commission made that decision recently, upon the advice of its legal counsel, in light of the decision on March 8 by U.S. District Court Chief Judge Frances Tydingco-Gatewood.

Tydingco-Gatewood specifically “permanently” barred the commission and “the government of Guam and its officers, employees, agents, and political subdivisions” from enforcing the political status plebiscite law.

The judge made the decision after the Ninth Circuit Appeals Court ruled in favor of the plaintiff, Arnold “Dave” Davis, a non-native of Guam and Air Force veteran who lived on Guam for decades and who also sued on behalf of others who are non-native voters of Guam.

The federal judge's order was clear, according to the commission's legal counsel, Jeffrey Cook.

“Thus the Guam Election Commission must immediately cease registering individuals to take part in a plebiscite and stop expending any funds related to its duties under the political status plebiscite statute,” according to the legal counsel.

It's now up to the governor or the legislature – or both – to determine what action to take, the legal counsel stated.

National news reports and opinion writers have picked up on the story, in part discussing how the governor had shown “defiance” of the court's order.

After the judge's order, the governor said he still wants the political status plebiscite held by next year, possibly using separate ballots for indigenous residents and non-native residents of Guam.

Attorney General Elizabeth Barrett-Anderson had reacted by saying she will review whether an appeal could be filed.

The issue had been reviewed by the Ninth Circuit Appeals Court, which ruled in 2015 that it's up to the chief trial judge to hear and decide on the merits of the case.

So unless, and until, the governor and the local AG's office files an appeal in a higher court and gets an order for Tydingco-Gatewood's decision to be on hold, allowing the registration of voters for the plebiscite to continue would only be futile.

It would also give voters from both sides a false sense of hope that registering would someday yield results, even without changing the underlying issue of a plebiscite that has been deemed unconstitutional.

https://www.postguam.com/entertainment/lifestyle/guam-native-wins-prestigious-literary-fellowship/article_e9eab62e-030a-11e7-a1e2-9f1c9f7bd031.html

Guam native wins prestigious literary fellowship

Craig Santos Perez praises the Pacific through poetry

Tihu Lujan | The Guam Daily Post Mar 12, 2017 Updated Mar 12, 2017

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Craig Santos Perez, a former resident of Mongmong, was recently awarded the Lannan Literary Fellowship for Poetry, recognizing his literary works so far and the potential he has for the future. Perez received a monetary gift and will reside at the Lannan properties in Marfa, Texas for four to six weeks, where the poet will be in an "ideal writing environment." Photo courtesy of Craig Santos Perez.

An established poet, educator and literary genius, Guam native Craig Santos Perez was recently awarded the prestigious Lannan Literary Fellowship for Poetry, recognizing the meritorious and potential work of the blooming literary artist.

The Lannan Foundation, which awarded Perez, is a family-based organization that is dedicated to cultural freedom, diversity and creativity, awarding monetary prizes and a month-and-a-half long residency at the Lannan properties in Marfa, Texas.

The opportunity grants Perez the time and environment to immerse himself in an ideal writing environment among other Lannan recipients, where the authors will have the space to create their next work of art.

The Lannan Literary Fellowship is Perez's second distinguished honor in a short period of time; also having received the 2015 American Book Award for his poetry book "unincorporated territory [(guma)]".

Guam son

A native Chamorro and former resident of Mongmong, Perez relocated to California with his family in 1995 and found roots in Manoa, Oahu in 2010 where he has resided since.

Perez currently works as an associate professor in the English department of the University of Hawai'i, Manoa, where he teaches creative writing and Pacific literature.

The accomplished literary artist has co-edited two anthologies of Pacific literature, authored three books of poetry, released his first audio poetry album "Undercurrent" in 2011, and is the co-founder of Ala Press – the only Pacific literature publisher in the United States, according to Perez.

Perez's poetry, essays, fiction, reviews and translations have also been published in more than a hundred national and international scholarly and literary journals and anthologies, he said.

In 2010, the Guam Legislature passed Resolution No. 315-30, which recognized and commended Perez as "an accomplished poet who has been a phenomenal ambassador for our island, eloquently conveying through his words, the beauty and love that is the Chamorro culture," according to the resolution.

Upon receiving the Lannan Literary Fellowship, The Guam Daily Post interviewed Perez as he prepares for his Lannan residency where the poet might write his next masterpiece.

Q&A with The Poet

Q: What was your reaction to being nominated, and then winning the prestigious Lannan Literary Fellowship? What does the award and recognition mean for you as a poet?

A: I felt surprised, then grateful. To me, the award shows that my poetry is being valued and appreciated by literary experts. The recognition means that my poetry is circulated and being seen on a national level.

Q: As a native of Guam, how does it feel to be the first Pacific Islander/Chamorro to receive the fellowship? What does this mean for aspiring poets and authors back home and across the Pacific?

A: Usually, Guam and Chamorros are invisible in America. I became so used to being invisible and marginalized that being seen in this way feels strange. At the same time, it feels empowering because now I have a platform to highlight my culture, history, and experiences. I hope this means that more attention will be given to all the other talented authors writing back home and across the Pacific.

Q: What are you looking forward to the most during your residency at the Lannan properties in Texas? What are you hoping to gain out of your experience and time there?

A: I am looking forward to having quiet time to work on my next book of poems, which will focus on the themes of nature, ecology, environmental justice, climate change, animals and food.

Q: Where did the young Craig Santos Perez get his inspiration and talent for writing poetry? Can you share a memory or experience that prompted you to start writing?

A: I have been very inspired by my parents, who are both engaging storytellers. I always remembering sitting around the table with them during family gatherings and listening to all their stories. Plus, they are both voracious readers and they always bought me children's and young adult books, comics and poetry when I was young. From these beginnings, I was inspired to start writing in high school when my family migrated to California. I had three wonderful English teachers that taught me the value of literature and creative writing: Jeff Kass, Kami Tomberlain, and Thomas Seaton.

Q: As an accomplished poet, author, and assistant professor at the University of Hawaii, Manoa, what is one piece of advice you can impart to your students and aspiring poets across the Pacific?

A: To students and aspiring poets, I advise to write with creativity, passion, truth, wonder, love, respect and fierceness. Write about the everyday and the eternal. Write about the spiraling connections between the past, present, and future. Write about your family, your village, your island, your ocean. Write about your memories and migrations, your fears and your dreams. And read other writers, Pacific and non-Pacific. Share your work at open mics and send it out for publication. And always value your stories.

Tihu Lujan

Covering Business, Nonprofits, Tourism, Environment, Parks and Rec., Special Features, and more.

https://www.postguam.com/entertainment/lifestyle/guahan-i-t-no-chamoru-the-land-of-the-chamoru/article_b78df7fe-0553-11e7-b423-e7c85d936dc9.html

Guahan, i tãno' CHamoru: The land of the CHamoru

By Tihu Lujan | The Guam Daily Post Mar 12, 2017 Updated 1 hr ago

Editor's note: While Chamorro is commonly used on the island, CHamoru is the official spelling in Chamorro Standard Orthography. It has been codified recently by the passage of the law re-establishing the Kumision i Fino CHamoru.

Taotao tãno' translates to "people of the land" and is commonly referred to the CHamoru people, indigenous to Guam and the Northern Mariana Islands. Last week, The Guam Daily Post sat down with Saina Laura Torres Souder to dive into the meaning and implications of the "taotao" in taotao tãno'.

This Sunday, the Post sat down with former senator, educator, and community activist Hope Cristobal to understand more about the "tano" in taotao tãno' and what it means in connection to the CHamoru people.

"Your indigenelty has to do with your ties to your ancestral lands, your homelands, or home islands in our case," Cristobal said. "When tãno' is spoken about, we don't speak about tãno' as a separate thing, we are truly a people of the land."

Guardians of the tãno'

In the early 1980s, Cristobal was primarily a science teacher at Simon Sanchez High School, but she always made it a point to teach at least one CHamoru class as well.

During this time, Cristobal and another teacher took their CHamoru classes on a field trip to Rota, to the home and property of the late Tun Thomas and his wife Tan Beata Mendiola. According to Cristobal, this area was known as "Mochong," a sacred ancestral grounds where the Mendiolas would act as the gatekeepers to our ancestors' livelihoods and presence.

According to Guampedia, Mochong is believed to be one of the very first settlements of the Mariana Islands, dating back as far as 1000 B.C.E. The area, which was listed on the National Register of Historic Places in 1985, is still visible today as an extensive ancient village site on the northern end of Rota.

A magnificent site of ancient CHamoru civilization, the site hosts approximately 47 latte stone sites, including an extremely rare structure with 14 columns and even a latte stone wall more than 50 feet tall.

The Mendiola family of Rota occupied land adjacent to this property, according to Cristobal, and would guard the property to extremes that would inspire the public official to dedicate her eventual public roles to fighting for ancestral land usage, native rights and agricultural respect.

"When you look at Mochong, it's like our ancestors just moved out months ago," Cristobal said. "The house structures are still there, the surface still had leftover artifacts, including their belongings and tools. Tun Thomas respected that the area was their residence. He would always say to "respeta" or "respetu"; it was so ingrained in him."

Fighting for sacred lands

Cristobal said that Tun Thomas was so protective of the property to the extent that he would stop any person who drove near the site. The land's caretaker wanted no profane language used, no loud noises. She said that he always wanted total calmness and for people to take deep breaths before they even entered the sacred grounds.

So, why was Tun Thomas so protective of this ancient land? The answer lies in the root of why many of our manamko' and CHamoru activists fight the good fight.

A World War II survivor, Tun Thomas fiercely protected his family's land from intruders and has fought off different kind of invaders and threats to the CHamoru way of life many times throughout his life.

The CHamoru guardian aggressively opposed the covenant that gave way for the Northern Mariana Islands to become a commonwealth and before his death, opposed the establishment of the recently proposed National Park Service in Rota, which would ultimately allow and bring more foot traffic to accessible sites like Mochong.

"I always wondered why this man was so fiercely protective of Mochong and keeping the land within the family," Cristobal said. "Looking at this place historically, Tun Thomas knew that this place was sacred. He knew that this was where his ancestors lived and were buried. That's how sacred the tãno' was to him."

It was through experiences like these and passionate people like the Mendiola family of Rota that Cristobal said inspired her to add fuel to the ancestral land defense on Guam.

"The kids would always ask 'Why is he so mean?' and I would say 'Mean? He's trying to teach us a lesson,'" Cristobal said. "His message to us is that we have to protect this land that has always been ours. Lands like Mochong have always been free to the CHamoru, why would you want to turn it over to the federal government? This was a lesson for me as well."

Acknowledging their freedom

While ancestral lands like Mochong still exist today across the Mariana Islands, Cristobal said that these lands still face the threat of federalization and desecration.

Lands such as Pagat and Litekyan (Ritidian) on Guam have been proposed as military firing ranges for years.

Land in Sumay, Andersen Air Force Base and many other areas around the island remain under the ownership of the United States government, where as they have been freely occupied by the taotao tãno' for thousands of years, according to Cristobal.

Citing renowned anthropologist Laura Thompson, Cristobal said that prior to Spanish arrival on island in the early 16th century, CHamoru lands and livelihoods thrived with nearly 200 small and clustered village settlements that harbored anywhere from 30 to 50 families spread throughout Guam's outlying coasts.

These lands and residents documented by Spanish explorers during their first arrival recorded impressive village systems populated by a people who lived off the land, Cristobal said.

In deep admiration and reverence, Cristobal recounted a time when the taotao tãno' were a free and sovereign people with a brilliant livelihood that depended on a respectful relationship with the land, only to be interrupted by the onslaught that colonization would bring in the coming centuries.

"Our lands represent a people who knew what freedom was like, emerging nationals of their own island," Cristobal said. "Our survival as a people has a lot to do with our ties to and respect for the land. It is land that makes us who we are as taotao tãno'. It makes us a special people and distinguishes us from others that have come to our shores."

Over time, the CHamoru people would be slaughtered and driven out from their lands as the Spanish invaders attempted to colonize the island for Spain and Roman Catholicism, banning ancient practices that established a communion with the land.

"Our people were free, we knew what freedom was, and we have always been defending and fighting for our freedom," Cristobal said. "We were the people of the land. To call ourselves the taotao tãno' reconnects us to that freedom that our ancestors had."

Respecting hãlom tãno'

Fast forward to today, these lands still exist and are traveled through everyday, Cristobal said. Lands across the island topped with residential areas and industrial developments were once the free ranging pathways of the taotao tãno', and they still are, she said.

These pathways and lands are honored and respected today through the practice of certain ritualistic rites in CHamoru culture.

When the CHamoru say "Guello yan guella kão siña yu' maloffan" or "Ancestors can I pass through?" we are asking the taotao tãno', our ancestors, for not only allowance, but awareness that we respect and recognize their space.

When our elders say "Na'faloffan yu' pufabot. Mungnga mana'puti este siha i famagu'on" or "Please make me pass, don't hurt my children," they are speaking to our ancestors whose spirits are still present in the hálom táno'. Hálom táno' literally means "in the jungle," but takes on a much deeper meaning of a place of respect and sanctity, where we believe our ancestors' spirits reside, Cristobal said.

"Háлом táno' is very sacred to us because it is grown over these antigu villages where the spirits of our ancestors are still around," Cristobal said. "Our ties to the land has a lot to do with generations of knowledge that have been passed down to us and our deep belief that our ancestors' spirits remain."

This familiar saying, practiced and preached by manamko' holds much more esteem than simply asking to enter a jungle or permission to cultivate resources, Cristobal said that we as present-day taotao táno' acknowledge our ancestors, and the fact that these are their lands and resources.

"They may have biologically left, but they still spiritually exist there, and for that the sacredness is respected and honored," Cristobal said. "When we do this we're basically responding to our ancestors, saying that we will keep the ecosystem as natural as nature would have it. That is how we live in harmony with our hálom táno'."

Communion with nature

Even when we enter these sacred places, the CHamoru interaction with the land is still held to the highest standards of respect. CHamoru culture has taught the taotao táno' a respectful system of taking no more than is needed from the hálom táno'.

Cristobal cited suruhanas and suruhanus, CHamoru healers who relied on medicine found in the hálom táno. Suruhanas like the late Tan Pai Certeza would venture into the hálom táno to gather medicinal resources, but they would never take more than they needed, and they would know how and where to retrieve the items, she said.

Similarly, "peskadot" or fishermen would be conscious and careful not to fish for more than what they would eat, ensuring the abundance of sea life for other villagers and in respect for the hálom táno.

"The land meant our sustenance, our survival, and so it was important that we maintain our ties with the land," Cristobal said. "The taotao táno' are a part of the natural environment. The remnants of our ancestors are still buried in the hálom táno' and the coastal areas, but they are also very much alive in who we are as people."

Taotao Táno' today

A champion of indigenous rights, ancestral land usage and environmental causes, Cristobal encourages the community to uphold the standard of respect for the hálom táno' in order to continue being taotao táno' and to provide a sense of belonging that has always been ours, she said. She added that it is essential for the CHamoru to have a connection with the land to be able to survive and thrive as a people.

"All of the things that we do are a part of this whole," Cristobal said. "Who we are and our ties to the táno' as taotao táno', we don't want to break that. We have a responsibility to speak out against injustices that would destroy our hálom táno'. We have been the caretakers of our land for centuries, why do we feel less apt to do so today? We can. We have it within us. The land has always been free."

Tihu Lujan

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https://www.postguam.com/news/local/ag-briefs-governor-senators-on-political-status-efforts/article_2841dba8-0dc1-11e7-b1ea-d3a6ead683f3.html

AG briefs governor, senators on political status efforts

John O'Connor | The Guam Daily Post Mar 21, 2017 Updated 1 hr ago

Several Guam officials met yesterday at the invitation of the governor to discuss further action on the District Court of Guam plebiscite ruling and GovGuam's response to a January letter from the Department of Justice regarding race-based nature of the Chamorro Land Trust Act.

In a press release issued earlier today, Attorney General Elizabeth Barrett-Anderson said she would issue a decision on the appeal before the deadline on April 7. The release stated that the plebiscite vote under Guam law pertained to those born on Guam between April 11, 1899 and August 1, 1950. It does not change law or "confer any benefit to anyone." Rather, the attorney general argues, the plebiscite is meant to be political expression by a Congressionally defined category of people, with the majority being native Chamorros.

The District Court, on the other hand, found the plebiscite race-based and unconstitutional.

"This is the second voting rights case in our region to be struck down by the federal court, and I understand the (Commonwealth of Northern Mariana Islands) might also be contemplating an appeal of their case. Any fight through our federal court system is extremely challenging when Constitutional rights are in question, especially when the fight involves the right to vote. And while the residents of a territory do not share in many Constitutional votes as are afforded residents of states, federal courts are quick to strike down laws that do not give equal voting rights to all," Barrett-Anderson stated.

Regarding the CLTC, the attorney general stated that she made known to senators and the governor she had no intention of signing a consent decree, as proposed by the DOJ as part of pre-suit discussions. Barrett-Anderson noted that Guam already has to pay millions through consent decrees issued by the federal court and it was her prerogative to see these cases closed.

"Both the plebiscite case and the attack upon the Chamorro Land Trust are resurrecting new political status debate. This is good because the debate has been too quiet for too long. It's time to return to the doorsteps of Congress as our lawmakers did in 1950. Congress must exercise its constitutional power over this territory once again for the preservation of Chamorro traditions, values, and culture through their land, and to accord the 'inhabitants' of Guam as they defined it in the vote of self-determination," Barrett-Anderson stated.

John O'Connor

Reporting on utilities, healthcare, education and other topics.

Accessibility **A+** Text size: [Smaller](#) [Reset](#) [Larger](#)

Chamorro Standard Time: Tuesday, March 21, 2017 - 03:58 PM



NEWS: Governor calls for unification on native rights

by Governor (<http://governor.guam.gov/author/governors/>) | Mar 19, 2017 | Decolonization (<http://governor.guam.gov/category/decolonization/>), Press Releases (<http://governor.guam.gov/category/pressreleases/>) | 0 comments (http://governor.guam.gov/press_release/news-governor-calls-for-unification-on-native-rights/#respond)

"We may have our disagreements here, in our house, but when we face the world we MUST STAND UNITED with ONE VOICE."



— Governor Eddie Baza Calvo

Governor Calvo agrees with Vice Speaker Therese Terlaje that the leaders of Guam should stand up for the rights of the indigenous people whose desires have been pushed aside for too long.

"Guam is now faced with the possibility of another consent decree that would, once again, disenfranchise the native inhabitants of this island by stopping or changing a program that was created to right a wrong levied upon the native people of Guam," the Governor stated.

Today, the Legislature discussed two resolutions related to the rights of the native inhabitants of Guam. Resolution 52 calls for the Attorney General of Guam to fight the Department of Justice's call for a consent decree on the Chamorro Land Trust program.

The U.S. Department of Justice stated in a Jan. 13, 2017 letter their determination that the Chamorro Land Trust program discriminates on the basis of race. DOJ has called for pre-suit negotiations to resolve the issue in the form of a consent decree. The administration will be working with the AG to discuss available options, which also will be discussed with the Legislature.

The Governor has no desire of moving in the direction of a consent decree.

"In my two terms now as Governor, I have seen and had to deal with consent decrees that have not been good for the people of Guam. The judicial activism that has been liberally exercised by the District Court has cost the people of Guam hundreds of millions of dollars," Governor Calvo stated. "This newly proposed consent decree can deprive the indigenous people of Guam from the justice the CLTC program is meant to provide."

The quest for self determination cannot end here



(<https://twitter.com/governorcalvo>)

(<https://www.facebook.com/eddiebazacalvo>)

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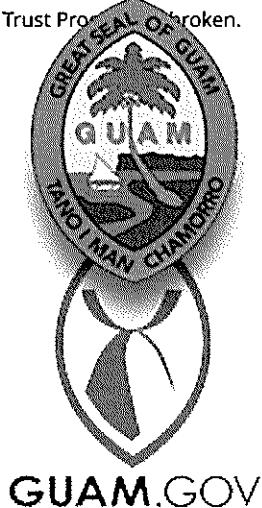
(<https://youtube.com/user/GovernorofGua>)

The Governor also agrees with the intent of Resolution 51, also written by Vice Speaker Terlaje and discussed by Senators today. "The fight to allow the native inhabitants of Guam to vote for their political future should not end with the District Court," the Governor said. "We MUST continue to work together to ensure the voice of the native people is heard."

The Governor firmly believes that a self-determination vote should be held and that the leaders of the executive and legislative branches must stand firm in this belief if a vote is to be realized.

"These rules have been written by a court that the native people of this island had no say in creating and yet it determines what the native people can and cannot do regarding their political status," the Governor stated. "That's not right."

Governor Calvo shares Vice Speaker Terlaje's desire that the leaders of Guam stand together and speak with one voice, ensuring that the native people's decision on political status is heard; and keeping the spirit of the Chamorro Land Trust Program unbroken.



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AG will fight feds on Land Trust

Jerick Sablan , jpsablan@guampdn.com 4:17 p.m. ChT March 21, 2017



(Photo: Frank San Nicolas/PDN)

Guam's attorney general is looking at the options in two ongoing indigenous rights cases.

"Both the plebiscite case and the attack upon the Chamorro Land Trust are resurrecting a new political status debate. This is good because the debate has been too quiet for too long," Attorney General Elizabeth Barrett-Anderson said in a news release.

Chamorro Land Trust

Barrett-Anderson said she won't sign a consent decree over the Chamorro Land Trust, which is important because the Chamorro culture is rooted in the land.

The Chamorro people were self-sustaining because of the land and the ocean. It's important the Land Trust exists for people who, in certain circumstances, may not have access to land, she said.

"More than likely they do not have land upon which to raise their children and then to continue the Chamorro culture. I think it's important," Barrett-Anderson said.

The U.S. Department of Justice wrote a letter in January to Gov. Eddie Calvo. It stated the Land Trust violates the Fair Housing Act and the Justice Department may sue if the local government doesn't enter a consent decree. Calvo has said he won't enter another consent decree with the federal government.

Related story:

[DOJ threatens lawsuit over Chamorro Land Trust](http://www.guampdn.com/story/news/2017/03/10/doj-threatens-lawsuit-over-chamorro-land-trust/98996242/)

(<http://www.guampdn.com/story/news/2017/03/10/doj-threatens-lawsuit-over-chamorro-land-trust/98996242/>)

Barrett-Anderson said when she was the attorney general 25 years ago, she signed a consent decree for the Department of Corrections, and she's still dealing with the issue today.

She's trying to close the consent decrees the government has and doesn't want to open another one, because the decrees have cost island taxpayers hundreds of millions of dollars.

Her office will respond to the Justice Department by the end of the month, informing it the government of Guam won't enter a consent decree. She expects the Justice Department to file a suit in response, but said she'd rather fight the issue in court.

"Let's go into court. Let's argue the issues very clearly and whoever wins, wins. We'll take it from there," Barrett-Anderson said.

She acknowledged that defending a local statute against federal law in a federal court is an uphill battle.

Plebiscite law

The AG's office has an April 7 deadline to appeal a recent U.S. District Court of Guam decision on the island's self-determination plebiscite law.

In a March 8 decision, Chief Judge Frances Tydingco-Gatewood ruled the plebiscite law imposes race-based restrictions on voting rights of non-native inhabitants, which is against the 15th Amendment.

Related story:

[Judge: Plebiscite law unconstitutional: AG may appeal](http://www.guampdn.com/story/news/2017/03/08/judge-arnold-davis-plebiscite-law-unconstitutional/98888880/)

(<http://www.guampdn.com/story/news/2017/03/08/judge-arnold-davis-plebiscite-law-unconstitutional/98888880/>)

Arnold "Dave" Davis is a non-Chamorro resident of Guam who applied to vote in the plebiscite. When he was denied, he sued the Guam Election Commission and others in the government in 2011.

Barrett-Anderson said her office is reviewing the 26-page decision to see whether it has the potential to appeal — not only to the Court of Appeals for the Ninth Circuit, but to the Supreme Court.

"It's not an easy determination to make," Barrett-Anderson said.

Two-tier approach

She said the island can take a two-tier approach to the Chamorro Land Trust issue. Local leaders can have a unified voice and speak to Congress about making a federal law that allows Chamorros a land program like other laws its granted for other indigenous peoples.

Related story:

[Island leaders support fight for indigenous rights](http://www.guampdn.com/story/news/2017/03/20/island-leaders-supporting-fight-indigenous-rights/99400912/)

[\(http://www.guampdn.com/story/news/2017/03/20/island-leaders-supporting-fight-indigenous-rights/99400912/\)](http://www.guampdn.com/story/news/2017/03/20/island-leaders-supporting-fight-indigenous-rights/99400912/)

And since Congress has authority over the territories, it has the power to change law to allow for programs like the Chamorro Land Trust. They've already done so for other native peoples from Hawaii and Alaska, she said.

"Congress hasn't acted for the Chamorro people. We have acted on our own, as best as we possibly can," she said.

But the local government is coming up against a brick wall that is the federal system and a federal government that says all people must be treated equally, she said.

She said Congress either needs to give the island greater autonomy — either through independence or closer union with the U.S. — or they'll going to have to keep answering the territory's call to make changes.

Read or Share this story: <http://www.guampdn.com/story/news/2017/03/21/ag-fight-feds-land-trust/99439358/>





OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuattro na Liheslaturan Guahan
34th Guam Legislature

March 17, 2017

MEMORANDUM

To: All Members
34th Guam Legislature

From: Acting Speaker Therese M. Terlaje

Re: Call to Session - Friday, March 17, 2017 at 5:30 PM

Håfa Adai! *I Liheslaturan Guahan* will be called into an Emergency Session on **Friday, March 17, 2017 at 5:30 PM**, in the **Speaker Antonio R. Unpingco Legislative Session Hall, Guam Congress Building**, concerning the following resolutions which had a public hearing at 9:00 am on March 17, 2017:

Resolution No. 51-34 (LS) - Therese M. Terlaje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

The Session will address Resolution No. 51-34 (LS) relative to the appeal of the Davis v. GEC case referenced in Resolution No. 51-34 (LS) and attached decision, which permanently enjoins the political status plebiscite and further actions by GEC in that regard.

Resolution 52-34 (LS) is urgent in light of the January 2017 deadline to respond to the Department of Justice threat of lawsuit, referenced in Resolution No. 52-34 (LS) and attached letter from the Department of Justice. An injunction or consent decree on the Chamorro Land Trust potentially impacts thousands of Guam residents.

Further, it is necessary to call session immediately on Resolutions 51-34 and 52-34 given that 1) the opportunity for the Government of Guam to appeal Judge Lydingco-Gatewood's recent opinion in Davis v. Guam is fast approaching and the Attorney General must file said appeal by April 7, 2017, and 2) that the public only recently became aware of the Department of Justice's threat to file a lawsuit against the Government of Guam if it does not enter into a consent decree to resolve allegations of the discriminatory nature of the Chamorro Land Trust Act as stated in the Department's letter to the Governor dated January 13, 2016.

The Legislature has reason to believe that the rapid pace of the aforementioned events calls for immediate action on its part, on behalf of the People of Guam, to timely render its support or opposition to both Judge Lydingco-Gatewood's opinion in Davis v. Guam and the Department of Justice's position on the Chamorro Land Trust Act, as both issues have significant legal and political implications for the Government of Guam and its residents.

Sj Xu'on Ma'åsg',


Therese M. Terlaje

cc: Media



**OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice**

*I Mina'trentai Kuáttro na Liheslaturan Guáhan
34th Guam Legislature*

**VICE SPEAKER SHARES WITH THE PUBLIC ALL TESTIMONIES FROM THE
PUBLIC HEARING IN HOPES OF MOVING FORWARD TOGETHER**

FOR IMMEDIATE NEWS RELEASE (March 20, 2017 – Hagåtña) - Senator Therese M. Terlaje (D-Yona) is encouraging all those who were unable to attend the hearing on Resolution Nos. 51-34 (LS) and 52-34 (LS) on Friday, March 17, 2017 to watch the video or read the full transcripts of the testimonies at <http://senatorterlaje.com/>.

“We must move forward together, educate ourselves, listen to each other, and be prepared for the fight for self-determination that generations before us have worked hard to preserve for us today. No self-determination has ever been handed on a silver platter. Nations have fought long and hard. If it is time to fight, we will be educated and united,” stated Terlaje.

###

For more information, please call the Office of Vice Speaker Therese M. Terlaje at (671) 472-3586.



COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*

I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature



March 20, 2017

The Honorable Therese M. Terlaje

Vice Speaker

I Mina'Trentai Kuåttro na Liheslaturan Guåhan

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

Re: Return of Committee Report on Resolution No. 51-34 (LS)

Buenas yan Håfa adai Vice Speaker Terlaje,

The Committee on Rules ("COR") received the committee report on Resolution No. 51-34 (LS) on March 17, 2017. After its review process, the COR has determined that the committee report is not available to be duly filed due to the following:

1. The Committee Report Digest for the committee report on Resolution No. 51-34 (LS) does not conform to the Standing Rules. § 6.04(c)(1) of our Standing Rules states that committee reports "shall include a digest setting forth the purpose and essential elements of the bill and a digest of the testimony and evidence of those testifying at the public hearing thereon." The Committee Report Digest for the committee report on Resolution No. 51-34 (LS) provides YouTube links to the broadcasted video of the public hearing, instead of transcripts of the testimonies.
2. Resolution No. 51-34 (LS) was referred to its author and not the committee of jurisdiction. As such, vote sheets for the Resolution must garner eight (8) votes from all Members to pass.

The COR will continue to retain the committee report on Resolution No. 51-34 (LS) in its review process, subject to corrections as submitted by the Prime Sponsor. Attached, please see the COR committee report checklist for your information, which shall be attached as a committee report item to the Resolutions.

Thank you for your attention to this important matter.

Vice Speaker Therese M. Terlaje

Respectfully,


Senator Michael F.Q. San Nicolas
Chairman of the Committee on Rules

MAR 20 2017

Time: 5:02 pm

Received by: RAJ



2 GCA LEGISLATIVE BRANCH
CH. 2 STATUTES

CHAPTER 2
STATUTES

- § 2101. Enacting Clause.
- § 2102. Resolving Clause.
- § 2103. Public Hearings Mandatory.
- § 2104. Number of Votes Required.
- § 2105. Effect of Repeal or Amendment.
- § 2106. Equal Rights for Women.
- § 2107. Separate Consideration of Land Bills.
- § 2108. Separate Consideration of Unrelated Matters.
- § 2109. Submission of Fiscal Year Budget to *I Maga'lahi*.
- § 2110. "Land Zoning Consideration Reports" Required for Land Zoning Legislation.
- § 2111. Separate Consideration of Debt Ceiling Adjustments.

§ 2101. Enacting Clause.

The enacting clause of all laws shall hereafter read,
'BE IT ENACTED BY THE PEOPLE OF GUAM'.

SOURCE: GC § 1101. Amended by P.L. 24-165:1.

§ 2102. Resolving Clause.

The resolving clause of all resolutions shall read,
'BE IT RESOLVED BY THE LEGISLATURE OF GUAM.'

SOURCE: GC § 1102. Amended by P.L. 24-165:2.

§ 2103. Public Hearings Mandatory.

(a) No bill may be passed by *I Liheslatura* unless it has received a public hearing, except that when the presiding officer of *I Liheslatura* certifies that emergency conditions exist, involving danger to the public health or safety, the requirement for a public hearing may be waived and in the event the bill is identical to a bill introduced earlier, which later bill received a public hearing, then a public hearing for the identical bill may be waived.

(b) No substantive resolution that is to be transmitted to the U.S. President, a member of the U.S. Congress, or a head of a foreign state, may be passed by *I Liheslatura* unless it has received a public hearing. Said public hearing shall be conducted by the primary author of the resolution. The resolution may then be placed on *I Liheslatura's* agenda upon the

written request of the primary author to the Speaker without further committee action and without a committee report.

SOURCE: GC § 1102.1. Amended by P.L. 25-022 and P.L. 28-012:2.

§ 2104. Number of Votes Required.

No bill shall be passed by *I Liheslaturan Guahan* with less than eight (8) affirmative votes of its members.

SOURCE: GC § 1102.2. Amended by P.L. 24-213:1.

§ 2105. Effect of Repeal or Amendment.

The repeal or amendment of any statute shall not affect any offense committed or any act done or right accruing or accrued or any action or proceeding had or commenced prior to such repeal or amendment; nor shall any penalty, forfeiture or liability incurred under such statute be released or extinguished, but the same may be enforced, continued, sustained, prosecuted and punished under the repealing or amendatory statute save as limited by the ex post facto and other provisions of the Organic Act, in which event the same may be enforced, continued, sustained, prosecuted and punished under the former law as if such repeal or amendment had not been made.

SOURCE: GC § 1103.

§ 2106. Equal Rights for Women.

(a) The Legislature finds that the proposed "Equal Rights Amendment" to the United States Constitution whereby women are to be treated under law equally with men is an appropriate expression of law that should apply to Guam, but also finds that even if such amendment is ratified by the necessary number of States, it is not at all clear that the provisions thereof will apply to Guam, since not all of the U. S. Constitution so applies and the proposed amendment itself speaks only of a "State." The Legislature has therefore determined to enact as local law the provisions of the proposed amendment.

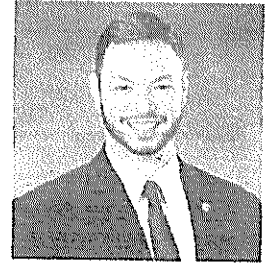
(b) Equality of Rights under the law shall not be denied or abridged on account of sex. All laws, rules, regulations and executive orders with the force of law which are inconsistent with this section are hereby repealed to the extent of such inconsistency.

(c) The Attorney General shall, within six (6) months after the effective date of this Act, submit a report to the Legislature enumerating therein all



COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina' Trentai Kudtiro na Liheslaturan Guåhan • 34th Guam Legislature




COMMITTEE REPORT CHECKLIST

Part 1 /

RESOLUTION NO. 51-34 (LS)	
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.	
Referred to: Vice Speaker Therese M. Terlaje	
(A) PUBLIC HEARING	(1) HEARING NOTICES SR §§ 6.04(a)(1) and 6.04(a)(2), Open Government Law (5 GCA, Ch. 8)
	<input checked="" type="checkbox"/> (a) Five (5) working days prior (ALL Senators & ALL Media) Date and Time of Notice: 3/9/17 7:15 pm
	<input checked="" type="checkbox"/> (b) Forty-eight (48) hours prior (ALL Senators & ALL Media) Date and Time of Notice: 3/14/17 1:33 pm
	(2) Date and Time of Hearing: 3/17/17 9:00 am
	(3) Location: Public Hearing Room, Guam Congress Bldg.
(4) HEARING WAIVED <i>or</i> by Speaker in case of emergency SR § 6.04(a)(1) <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <i>If YES:</i> Attach memo indicating WAIVER	



Committee Report Checklist on Resolution No. 51-34 (LS)
Part 1 /

(B) COMMITTEE REPORT	(1) Committee Report filed with COR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES:</i> Date & Time: <u>3/17/17 5:45 pm</u>	<i>If NO:</i> UNABLE TO PLACE ON SESSION AGENDA SR § 6.04(d)(1)
	(1)(a) Secondary CMTE Report filed with COR? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <i>If YES:</i> Date & Time:	
(2) COMMITTEE REPORT COMPONENTS		
	(a) Front Page Transmittal to Speaker	<input checked="" type="checkbox"/>
	(a)(1) COR Chair Signature Line	<input checked="" type="checkbox"/>
	(b) Title Page	<input checked="" type="checkbox"/>
	(c) Committee Chair Memo to All Committee Members	<input checked="" type="checkbox"/>
	(d) COR Referral Memorandum	<input checked="" type="checkbox"/>
	(e) Notice of Public Hearing & Other Correspondence	<input checked="" type="checkbox"/>
	(f) Public Hearing Agenda	<input checked="" type="checkbox"/>
	(g) Public Hearing Sign-in Sheet	<input checked="" type="checkbox"/>
	(h) Written Testimonies & Additional Documents	<input checked="" type="checkbox"/>
	(i) Committee Vote Sheet(s)	<input type="checkbox"/>
	(j) Committee Report Digest(s)	<input type="checkbox"/>
	(k) Resolution History	<input checked="" type="checkbox"/>
	(k)(1) Copy of Resolution as introduced	<input checked="" type="checkbox"/>
	(k)(2) Copy of Bill as amended/substituted by Committee (if applicable)	<input type="checkbox"/> n/a
	(n) Related News Reports (optional)	<input type="checkbox"/> n/a
	(o) Miscellaneous (optional)	<input type="checkbox"/> n/a
	(p) Committee Report Checklist(s)	<input checked="" type="checkbox"/>
(C) COR Action	<input type="checkbox"/> CMTE Report duly filed; Available for Placement on Session Agenda <input checked="" type="checkbox"/> CMTE Report non-conforming for acceptance; Return to Committee	COR CHAIR (Signature, Date & Time)  <u>3/2/17</u> <u>3:11</u>





OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåtro na Liheslaturan Guåhan
34th Guam Legislature

March 17, 2017

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåtro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa
Hagåtña, Guam 96910

VIA: The Honorable Michael F.Q. San Nicolas
Chairperson, Committee on Rules

RE: Committee Report on Resolution No. 51-34 (LS)

Dear Speaker Cruz:

Transmitted herewith is the Committee Report on Resolution No. 51-34 (LS) - Relative to supporting that the Government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the native inhabitants of Guam.

Committee votes are as follows:

5 TO DO PASS
___ TO NOT PASS
___ TO REPORT OUT ONLY
___ TO ABSTAIN
___ TO PLACE IN INACTIVE FILE

Si Yu'os ma'åse',


Therese M. Terlaje

COR
received
3/17/17 5:45pm *CPW*

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 | F: (671) 472-3589 | Email: senatorterlajeguam@gmail.com
www.senatorterlaje.com

COMMITTEE REPORT ON


Resolution No. 51-34 (LS)
Introduced by Therese M. Terlaje

“Relative to supporting that the government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the native inhabitants of Guam”

March 17, 2017

MEMORANDUM

To: All Members
Committee on Culture and Justice

From: Vice Speaker Therese M. Terlaje 
Committee Chairperson

Subject: Committee Report on Resolution No. 51-34 (LS)

Transmitted herewith for your consideration is the Committee Report on Resolution 51-34 (LS) – “Relative to supporting that the government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the native inhabitants of Guam.”

This report includes the following:

- Copy of COR Referral of Res No. 51-34(LS)
- Copy of COR Pre-Referral Checklist on Res No. 51-34(LS)
- Copy of Res No. 51-34 (LS)
- Notices of Public Hearing
- Public Hearing Sign-in Sheet
- Copy of the Public Hearing Agenda
- Copies of Submitted Testimony & Supporting Documents
- Related News Reports
- Committee Report Digest
- Committee Vote Sheet

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os ma'åse'!



COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature



MEMO

To: **Rennae Meno**
Clerk of the Legislature
Attorney Julian Aguon
Legislative Legal Counsel

From: **Senator Michael F.Q. San Nicolas**
Chairman of the Committee on Rules

Date: **March 10, 2017**

Re: **Referral of Resolution No. 51-34 (LS)**

Buenas yan Håfa adai.

As per my authority as Chairman of the Committee on Rules, I am forwarding the referral of **Resolution No. 51-34 (LS)**.

Please ensure that the subject resolution is referred, in my name, to **Vice Speaker Therese M. Terlaje, author of Resolution No. 51-34 (LS)**.

If you have any questions or concerns, please feel free to contact Christian Valencia, Committee on Rules Director, at 472-6453.

Thank you for your attention to this important matter.

Respectfully,


Senator Michael F.Q. San Nicolas
Chairman of the Committee on Rules



I MINA 'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
RESOLUTION STATUS

Resolution No.	Sponsor	Title	Date Intro	Date of Presentation	Date Adopted	Date Referred	Referred to	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
51-34 (L5)	Therese M. Terfaje	RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.	03/09/17 4:35 p.m.				The Author			



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

FIRST Notice of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Thu, Mar 9, 2017 at 7:15 PM

To: phnotice@guamlegislature.org

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Bcc: neil@postguam.com, Sabrina Salas <sabrina@kuam.com>, parroyo@k57.com

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje, along with Res Nos. 51-34 and 52-34 (LS).

Should you have any questions, please contact our office.

Thank you,

Nicole Santos

March 9, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Friday, March 17, 2017, beginning at 9:00 AM in / *Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

--
The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåtto na Liheslaturan Guåhan
34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

3 attachments

 **PH_First Notice_031717.pdf**
165K

 **Resolution No. 51-34.pdf**
97K

 **Resolution No. 52-34.pdf**
137K




OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Lihelaturan Guåhan
34th Guam Legislature

March 9, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje 
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Håfa Adai!

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Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

SECOND Notice for Public Hearing - Tuesday, March 17, 2017, 9:00 AM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Mar 14, 2017 at 1:33 PM

To: phnotice@guamlegislature.org

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje.

Should you have any questions, please contact our office.

Thank you,

Nicole Santos

March 14, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Friday, March 17, 2017, beginning at 9:00 AM in / *Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

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 **PH_Second Notice_031717.pdf**
165K



OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

March 14, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Friday, March 17, 2017, beginning at 9:00 AM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

CORRECTION: SECOND Notice for Public Hearing - Friday, March 17, 2017, 9:00 AM

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Mar 14, 2017 at 2:18 PM

To: phnotice@guamlegislature.org

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Hafa adai to All,

This e-mail is sent as a correction to the above subject line, to read: "SECOND Notice for Public Hearing - Friday, March 17, 2017, 9:00 a.m."

Sinceremente yan *Si Yu'os Ma'åse'!*

C. B. Kintol
Policy Analyst

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

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On Tue, Mar 14, 2017 at 1:33 PM, Senator Therese Terlaje <senatorterlajeguam@gmail.com> wrote:

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje.

Should you have any questions, please contact our office.

Thank you,
Nicole Santos

March 14, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing - Friday, March 17, 2017 at 9:00 AM

Håfa Adai!

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RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

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RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

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We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

--

The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice

I Mina'trentai Kuáttro na Liheslaturan Guåhan
34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

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Thursday, March 16, 2017
Pacific Daily News
guampdn.com

ON THE FRIDGE

Send your submissions for "On the Fridge" to life@guampdn.com. Include: who, what, where, when and how much — as well as a point of contact for more information.

TOMORROW

Public hearing: The Guam Legislature's Committee on Culture and Justice will convene a public hearing at 9 a.m. March 17 in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, 163 Chañan Santo Papa, Ha-

gátña, 96910) to discuss **Resolution No. 51-34 (LS)** - related to supporting an appeal in Davis V. Guam Election Commission case and **Resolution No. 52-34 (LS)** related to supporting the Attorney General, the Chamorro Land Trust Commission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is invited to attend and provide comments. For more information or special accommodations, contact the Office of Vice

See FRIDGE, Page 26

BELOW CARDS ON SALE NOW.

THIS THURSDAY
A BIG \$4.4
A standard card costs \$2. Play Extra Powerballs \$2. MORE CHANCES TO WIN.

THIS SATURDAY'S JACKPOT
\$2.5 M
Card Cost \$18

CARDS ON SALE NOW AT OUR EXCLUSIVE OUTLETS - ALL PAYLESS SUPERMARKETS, DAY BUY DAY MARKET IN PITI, SUPERMART MANDIAG, 5 ELEVEN'S

REMEMBER MEGA BINGO IS PLAYED AT HOME... GAMING

NEED HELP? PLEASE CALL 688
*ALL GRAND PRIZES

dents will be accepted. For more details contact any of the following; Mila Moguel at 649-4489, Gloria Baguion at 686-5871 or Ciony Vi-ray at 637-1538.

MARCH

Public hearing: The Guam Legislature's Committee on Culture and Justice will convene a public hearing at 9 a.m. March 17 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, 96910) to discuss **Resolution No. 51-34 (LS)** - related to supporting an appeal in Davis V. Guam Election

Commission case and Resolution No. 52-34 (LS) related to supporting the Attorney General, the Chamorro Land Trust Commission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is invited to attend and provide comments. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or senatorterlajeguam@gmail.com.

Bye Bye Birdie musical:

Guam High School is proud to present our local production of Bye Bye Birdie. Bye Bye Birdie is a loving satire of the 1960s, small-town America, teenagers, and rock and roll. Featuring a tuneful high-energy score and a hilarious script, Bye Bye Birdie continues to thrill a wide variety of audiences. Show times are 6 p.m. March 17, noon and 6 p.m. March 18. Open to the public (with a valid picture ID). Tickets are available at Guam High School and from any cast member for \$10 each. To reserve your tickets, call 344-7362. For more information, email ro-

mina.sotomil@pac.do-dea.edu.

Father Duenas Annual Songfest: The Father Duenas Memorial School Class of 2019 presents "Sounds of the Cinema" 5 p.m. March 18 at the Calvo Fieldhouse at the University of Guam. Show begins at 7 p.m. Performances will feature songs that have been used in films. Tickets are \$20 and tables are \$400. Concessions will be sold. For more information call the office at 734-2261 or email Mr. Brian Galang at bgalang@fatherduenas.com.

PANGASINANANSES BINGO

OPERATION OF THE PANGASINANANSES ON GUAM (FOPOG)
Guam • Tel: 649-1931 DOORS OPEN: 4:00 PM • GAME START: 7:30 PM

THURSDAY, MARCH 15, 2017

AWAY	BLACKOUT GIVEAWAY
00	\$5,000
AWAY	7 REGULAR GAMES
00	\$3,000

CARD PRICES:

- 1 - Early Bird.....3/\$5
- 1 - Letter "X".....\$5
- 1 - Indian Star.....\$5
- 1 - Blackout.....\$5
- Double Action.....\$1
- Ball.....\$1

Combos
Includes: Letter X, Indian Star, Blackout

\$2000 CASH DRAWING ON THURSDAY

Special Buy-in:

- Queen Package: 80+20 Free Pkgs - \$90
- 3 Letter X, 3 Indian Star, 3 Double Action, 1 Set Early Bird; 3 Blackout; 2H/B
- King Package: 100+30 Free Pkgs - \$115
- 5 Letter X, 5 Indian Star; 5 Double Action; 1 Set Early Bird; 5 Blackout; 2H/B

DO NOT ALTER OR CANCEL ANY EVENT OR PROGRAM WITHOUT PRIOR NOTICE.

NOTICE

BAUER COMPRESSORS

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Micronesian Divers Association (MDA) is the only Authorized BAUER Compressor and equipment supplier for the Guam and Micronesia region to include municipal fire & public safety departments. To contact them call their Piti offices at 472-6321 or email info@mdaguam.com.

SPICY TIME FOR LENT



SPICY

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ON THE FRIDGE

Send your submissions for "On the Fridge" to life@guampdn.com. Include: who, what, where, when and how much — as well as a point of contact for more information.

NEW LISTINGS

Diabetes session: The Guam Diabetes Association will be hosting its free monthly Diabetes session from 5:30 to 7 p.m. March 14 at the Mangilao Senior Center. The guest speaker is Rita Oliva from Immunization Program/DPHSS. The topic is "Immunization and Diabetes." Healthy refreshments will be served. Open to the public. For more info, call 632-1971.

Public hearing: The Guam Legislature's Committee on Culture and Justice will convene a public hearing at 9 a.m. March 17 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, 96910) to discuss **Resolution No. 51-34 (LS)** - related to supporting an appeal in Davis V. Guam Election Commission case and Resolution No. 52-34 (LS) related to supporting the Attorney General, the Chamorro Land Trust Commission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is invited to attend and provide comments. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or senatorterlaje-guam@gmail.com.

LIFE & STYL

Plan ahead for the perfect bridal do

SUE LEE

SJLEE@GUAMPDN.COM

W

When it comes to getting the perfect hairstyle for your big day, planning ahead and trusting your hairdresser will diminish some of those wedding jitters,

says Saphire Riboni, cosmetologist at Hair Town, Guam Premier Outlets, Tamuning.

It'll be a disaster if you walk in the day of and try to figure it all out, Riboni says. You should get to know your stylist so you're on the same page. Schedule a trial three to four months ahead of your wedding date. Bring samples of what you like so he or she can get an idea of what you want. Also bring along your veil and any other hair accessories you plan on wearing.

"I look at their dress, their face, how they look, how long their hair is ... but sometimes you kind of have to ignore those things too. I'm good at gauging that. I can say it looks good but if the bride says she's not comfortable, I try to compensate, even if the style doesn't

chance to observe work.

"I wasn't a picky when I gave her free when I gave her free them (bridesmaids) h do that complimentec Best decision I made r tion of my wedding,"

So on that note, Riboni recommends getting at least a consultation beforehand mind that not all stylists are comfortable doing a

See STYLIST, Page 15



Daughter's efforts are never good enough for her family



DEAR ABBY
JEANNE
PHILLIPS

DEAR ABBY: I'm a 15-year-old girl, and I'm struggling with abuse. I'm mentally and physically

abused by my family constantly, yet they make me out to be the abusive one. I could do amazing on a test, and they yell at me for something that happened on the last one. They're always pushing me so hard to do better that it's making me do worse.

How can I make my family see that I'm not them, and I can do good if they just give me the chance to learn from my mistakes? —STRUGGLING IN WISCONSIN

DEAR STRUGGLING: Parents always want their children to per-

form to their level of capacity. Because you say you are being abused physically and emotionally for your inability to live up to your family's expectations, discuss what's going on with a counselor at your school. It's possible there needs to be an intervention by someone they will listen to. Please don't wait to do it.

DEAR ABBY: My husband of three years has visits with his son every Tuesday and Thursday evening. My mother-in-law picks up her grandson, takes him to her home and makes dinner for the three of them. I work 10-hour days Monday through Friday and am not able to attend these dinners.

My question is, isn't it proper etiquette that my mother-in-law should send a plate of food home for me with my husband? She never has,

and I think this is rude and inconsiderate of her. What is your opinion? —HUNGRY IN EL PASO

DEAR HUNGRY: Although brief, your letter speaks volumes about your relationship with your mother-in-law, which appears could be better. No rule of etiquette dictates that she is obligated to send a plate of her food home with her son for you. Perhaps if your relationship with her was warmer, or your husband was thoughtful enough to suggest it, she would. However, since you asked, my opinion is that rather than complain, you should pick up some take-out on your way home from work.

DEAR ABBY: I'm a 22-year-old college student on the verge of graduating this May. I've been dating my boyfriend for more than five years, and I am extremely close with his

family, especially his sister "Claudia" and her three children (ages 6, 3 and 6 months). My parents are throwing me a graduation party at their home, and they don't want any guests under the age of 10. How do I tell Claudia — a dear friend — that her children won't be invited without upsetting her?

How do I tell her? Help! —SOON-TO-BE GRADUATE

DEAR SOON-TO-BE GRADUATE: You are not hosting the party; your parents are. As the hosts, it is their privilege to decide whom to invite — or not. When Claudia is invited, your parents should explain that they prefer children under the age of 10 not be present.

Contact Dear Abby at www.DearAbby.com.

GOVERNMENT MEETINGS

New Listings

» The Guam Legislature's Committee on Culture and Justice will convene a Public Hearing at 9 a.m.

March 17 in I Liheslaturan Guåhan's Public Hearing Room (Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, 96910) to dis-

Discuss Resolution No. 51-34 (LS) - related to supporting an appeal in Davis V. Guam Election Commission case and Resolution No. 52-34 (LS) related to supporting the Attorney General, the Chamorro Land Trust Com-

mission (CLTC) and Governor in fighting the Department of Justice (DOJ) allegations of discrimination by CLTC, and urging them not to enter into a consent decree in response to threat from DOJ. The public is in-

vited to attend and provide comments. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or email

See MEETINGS, Page 22

Psst! Hafia? You're in the Local section of the Post — the news that concerns you the most. Do you have a news tip? Feel free to email editor@postguam.com.

GUAM HOUSING AND URBAN RENEWAL AUTHORITY

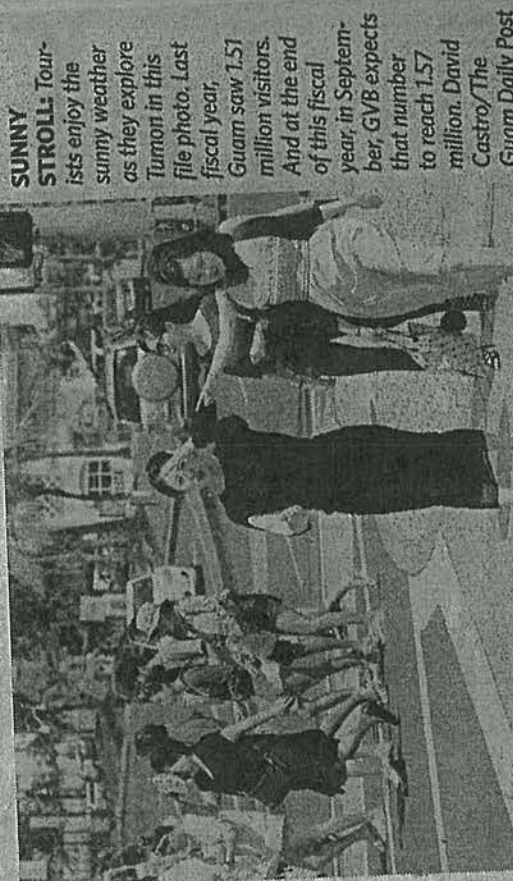
Board of Commissioners Meeting
 12:00 P.M., Friday, March 17, 2017
 GHURA Main Office
 1st floor Conference Room
 117 Bien Venida Avenue, Sinajana

Agenda

- I. ROLL CALL
- II. APPROVAL OF PREVIOUS BOARD MINUTES — FEBRUARY 24, 2017
- III. CORRESPONDENCE AND REPORTS
- IV. OLD BUSINESS

- V. NEW BUSINESS
- VI. GENERAL DISCUSSION/ANNOUNCEMENT
- VII. ADJOURNMENT

For special accommodation, contact Ms. Kathy Taitano
 Tele No. 475-1322 or TTY #472-3701



SUNNY STROLL: Tourists enjoy the sunny weather as they explore Tumon in this file photo. Last fiscal year, Guam saw 1.51 million visitors. And at the end of this fiscal year, GVB expects that number to reach 1.57 million. David Castro/The Guam Daily Post



I Mina'trentai Kuáttro na Liheshaturan Guáhan 34th Guam Legislature

OFFICE OF THE VICE SPEAKER
 THERESA M. TERLAJE
 COMMITTEE ON CULTURE AND JUSTICE

Public Hearing
 Friday — March 17, 2017
 9:00 a.m.

Guam Legislature Public Hearing Room,
 Guam Congress Building, Hagåtña

AGENDA

Resolution No. 51-34 (LS) - Therese M. Terlaje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

If you require any special accommodations, auxiliary aids, or other special services, or for further information, please call the Office of Vice Speaker, Therese M. Terlaje at 472-3586. For copies of any of the Bills or Resolutions listed on this agenda, you may log on to the Guam Legislature's website at www.guamlegislature.com. Testimonies may be submitted directly to our office at the Guam Congress Building at 163 Chalan Santo Papa in Hagåtña or at the Protocol Office of the Guam Congress Building, via fax at 472-3589, or via email at senatorterlaje@guam.gov.

This ad is paid for with government funds.

Audit: Hotel rates, tax collections rise with visitor numbers

Guam tourism's booming visitor arrivals from Japan are expected to continue to slide, according to the audit report's projections.

Rising room rates

When more people want hotel rooms, the occupancy rate goes up - and so does the cost of the hotel room, which was also reflected in the hotel occupancy tax collection.

Guam hotel rooms had an 8 percent average occupancy in fiscal 2016, up from 74 percent the previous year. However, during peak season certain Guam hotels have had to turn guests away because they're fully booked.

Fiscal year 2016 Tourist Attraction Fund collections rose 10 percent compared with the previous year, totaling \$40 million, according to an audit on Guam Visitors Bureau finances, released yesterday.

This was due to the increase in the number of Guam's hotel room guests, and the increase in the average room rate, the report stated.

An 11 percent hotel occupancy tax is assessed on the daily rate of a hotel



I Mina'trentai Kuåttro na Liheslaturan Guåhan

34th Guam Legislature

OFFICE OF THE VICE SPEAKER

THERESE M. TERLAJE

Chairperson of the Committee
On Culture and Justice

Public Hearing

Friday, March 17, 2017

9:00 a.m.

AGENDA

Resolution No. 51-34 (LS) - Introduced by: Therese M. Terlaje
RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD
TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN
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GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT
PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE
CHAMORRO LAND TRUST ACT.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via [I Liheslaturan Guåhan's](#) live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at [\(671\) 472-3586](tel:671-472-3586) or by sending an email to senatorterlajeguam@gmail.com.

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 | F: (671) 472-3589 | Email: senatorterlajeguam@gmail.com
www.senatorterlaje.com



I Mina'trentai Kuáttro na Liheslaturan Guáhan
Office of the Vice Speaker
Senator Therese M. Terlaje
 Committee On Culture and Justice

Date: Friday, March 17, 2017 **Time:** 9:00 AM

Resolution No.: 51-34 (LS)

PUBLIC HEARING
SIGN UP SHEET

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Ted Nelson	Box 181	7276351					✓
2	Rudolph Villaverde	Box 218056	7349314	rev5rev5@gmail.com				✓
3	Bob Pelky YMLG	P.O. Box 20142 Bm	637-3396	bobpelky55@gmail.com				✓
4	Harold Cruz	Orlet	689-8693					✓
5	Babanta	Yigo	499-8136					✓
6	Siina Ofing	Mangilao	637-5644			✓		✓
7	Angela Lahan Pagat	Mangilao	462-1610					✓
8	Vicente Garcia	D.S. - D	637-5700					✓
9	Enrique Torres	Yona	789-2895					✓
10	Rambo Benavente	Mangilao	838-8358				✓	✓



I Mina'trentai Kuáttro na Liheslaturan Guáhan
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					WRITTEN	ORAL	Yes	No
1	Aguon John Raymond		888-8806	atalai22@gmail.com	✓		✓	
2	Hope Custodial	Lamuning				✓	✓	
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					WRITTEN	ORAL	Yes	No
1	Francisco K Mex	Po Box 11641 Tamuning	929 3074	frankshidi.kar@carle.gov				✓
2	Lasia Casil	545 Bishop Olano	688-1139	user522@hotmail.com		✓		✓
3	Bob Perez	CHATELAIN 227 N. ...	929-6000					
4	Ray Lujan							
5	Lakretia Castro-Santos							
6	Rosario Perez							
7	Jamela Santos	Mangilao			✓	✓		✓
8	Rm Mend							✓
9	Edward Cruz	Barrigada	489-8156	"				
10	Tressa Diaz	Tofo	682-3233					✓



I Mina'trentai Kuáattro na Liheslaturan Guåhan
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Castro-Santos, Laketia		(671) 689-5454	L.CASTRO04@LIVE.COM	✓		✓	
2	Jose Ulloa Garrido	TFFA	686-9075	HUMATAK@guam.net		✓		
3	Josette Quireza		977-2015	JOSETTE@UMATA.ORG		✓		
4	MANNY DUEÑAS		727-5460					✓
5	Maga Anita	4160	653-6637			✓		✓
6	DAVID PRABU	4146	489-2457					✓
7	DARRIN PANGELINAN		988-7706	darrin.pangelinan@gmail.com	✓		✓	✓
8	Michael Bevacqua	Mang. Tao	988-7106					
9	Carlos Amacho	Davunjad's	607-7233					
10	Trini Torres	Toto Chodogo				will submit later	✓	✓

Aditya Puri/18

477-2723



I Mina'trentai Kuáttro na Liheslaturan Guåhan
Office of the Vice Speaker
Senator Therese M. Terlaje
 Committee On Culture and Justice

Date: Friday, March 17, 2017 **Time:** 9:00 AM

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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Rosa Salas Palomo	P.O. Box 909, Hagåtña 96932	727-5570	kailee.rosapalomo@gmail.com		✓	✓	
2	Nieves					✓		
3	Shannon McManus	P.O. Box 8879 Agaña	685-9384	kecipalau@gmail.com		✓	✓	
4	Jonathan Glaser	P.O. Box 8878 Agaña	685-9384				✓	
5	Catherine F. McCollum	115 Punzalan St. Tampuning, Gu. 96913	488-6662				✓	
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Senator Therese M. Terlaje
 Committee On Culture and Justice

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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Randy Leguans					✓	✓	
2	Ned Pabla					✓		✓
3	Wynny Tank	A-4				✓	✓	
4	Carmen Kasperbauer					✓		
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	ALISSA ECUAVEA Taimardo	Yona	484-7438	alissa.eclavea@gmail.com	✓			✓
2	Desiree Ventura	Yigo	685 5102	desiree.taimardo@gmail.com		✓		✓
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Atty Mike Paulips							
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8								
9								
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ROBERT A. UNDERWOOD
Box 3159, Hagatna, GU 96932

March 16, 2017

Vice Speaker Therese M. Terlaje

Therese M. Terlaje
Vice-Speaker, 34th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

MAR 16 2017

Time: 3pm

Received by: MSM

Dear Vice-Speaker Terlaje,

I am writing you to alert you about the maximum danger point which the Chamorro people face today. I could write about my passion (fino' Chamorro) or the Chamorro Land Trust which is also being threatened. But I want to draw your attention to the matter of Chamorro Self-Determination. This is the inflection point of not just the continued existence of the Chamorro people, but a test of whether we understand Guam's unique history. Ultimately, it is a question of respect for the Chamorro people.

As a long time history teacher, I warn students to avoid thinking that history began when they came along or when they started thinking about it. History is a long and, frequently, tortured story. Acting on the political status future for Guam is a historical project that belongs to the Chamorro people and goes back several centuries. It is an attempt to understand the past, inform the present and fuel the future. It isn't a "future" project. It is a connective project based on the principles of respect and inafa'maolek.

People who migrated to Guam in the past few decades brought their assumptions about their own past and their own future primarily in terms of American jurisprudence and authority. I do not contest that nor do I seek to deny them that point of view. I only ask that they understand that the Chamorro people are the ones that have historically been colonized and that they deserve the opportunity to decolonize their homeland. I ask them, just as I remind fellow Chamorros, that the native people of Guam had their own unique experience that continually kept them from exercising the right to make a political decision on their own terms with various options available to them.

The legal authorities have recently spoken. The US District Court in Guam has stated that it is not Constitutionally permissible to allow a vote of Chamorro self-determination even if it was not binding. It is dispiriting and discouraging although not unexpected. Ironically, opponents of Chamorro self-determination appealed to an entirely different set of historical circumstances (American law, Constitutional amendments coming out of the American Civil War, Supreme Court decisions designed to place territories in a perpetual colonial status) in order to defeat the

Chamorro historical experience. In the American Legal battlefield, they prevailed. But while the battle may have been lost, the struggle continues.

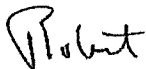
We have been at this low point before. I present to you a copy of a document prepared by the Organization of People for Indigenous Rights from 1982. In the document, you will read a clear statement about Guam's history. You will see familiar names like Bernadita Dungca, Clotilde Gould, BJ Cruz, Ron Teehan, Nerissa Lee, Marie Pablo, Al Lizama, Chris Perez Howard, Rosa Palomo and Hope Cristobal. These individuals provided Guam the opportunity to reflect upon Guam's past and future and the existence of Chamorro self-determination.

They were derided and belittled. They were called "half breeds," told that they were inauthentic Chamorros and questioned because they weren't even Chamorro. I can speak from personal experience that members of the Guam Legislature at that time avoided us except for a handful. We didn't wring our hands and we were not disrespectful to anyone. We simply presented our case. The case is still the same. In many ways, the opposition arguments sound painfully similar.

I ask you to take the time to read the document and learn about the political status development of Guam. I ask you to pursue a strategy that honors and respects the Chamorro people in the quest for self-determination. I believe that it is possible to do so without the compromise of multi-colored ballots or simply treating it as another election.

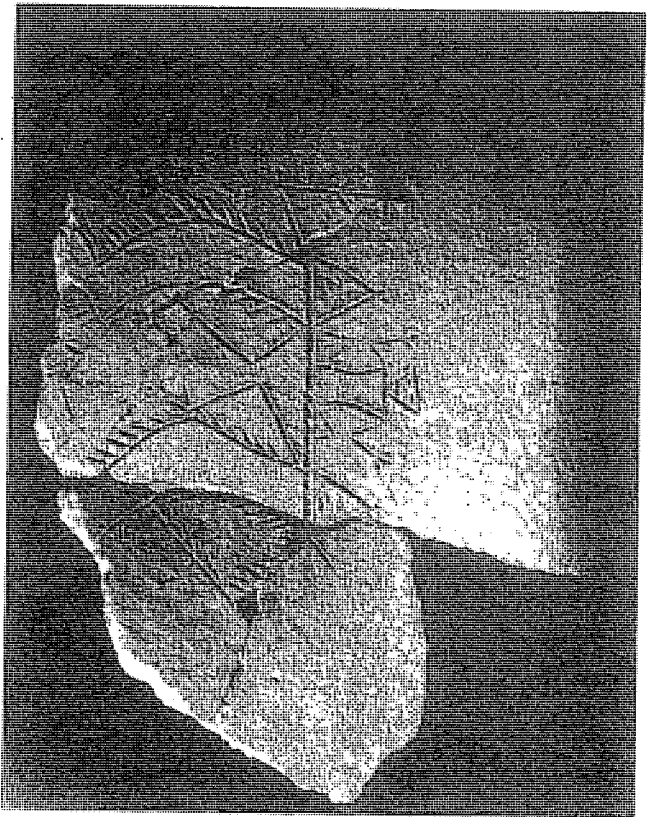
I will be happy to discuss any concern about Chamorro self-determination that you may have. I will be happy to discuss alternative strategies. At a minimum, we must continue the struggle in the US Courts and the United Nations. These are not necessarily the venues that will resolve the issue, but they are the venues which are currently available to us.

Biba taotao tano'! Biba Guahan!



si Robert A. Underwood

Self-Determination:



A People's Right

Paid for by members and friends of The Organization of People for Indigenous Rights

Post Office Box 7332
Tamuning, Guam 98911

OP(IGR)

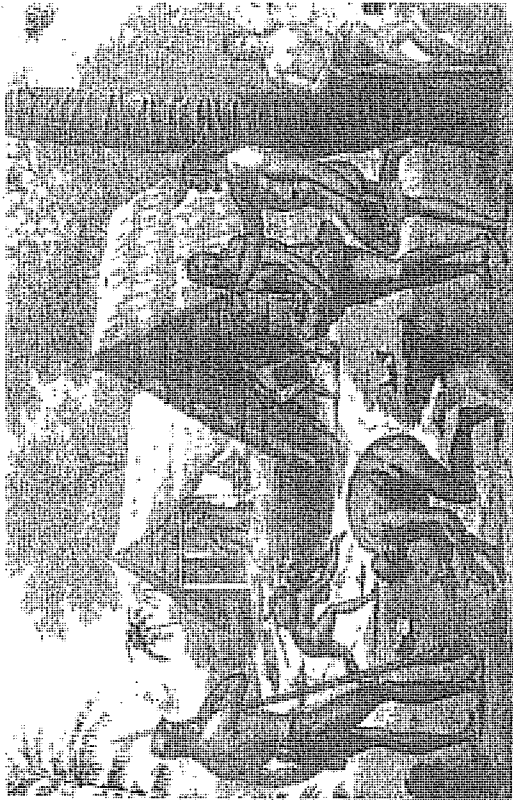
Hafa Adai!
The Organization of People for Indigenous Rights was organized by concerned individuals in response to the Government of Guam's current political process to change Guam's political status without recognizing the Chamorro's right to self-determination. We are a non-profit organization composed of people from all walks of life, of different ethnic groups, religious and political beliefs, and political status preference. Our common bond is our belief that only the indigenous inhabitants of Guam, the Chamorro people, have the right to determine their political destiny by changing Guam's political status from a non-self governing territory to a status considered as having a full measure of self government. This right is called the right of self-determination and is defined as "the right of a people to determine the way in which they shall be governed and whether they shall be self governed or governed by another power."
This right has been legally and morally recognized and supported by the United States in numerous documents and in correspondence to the Government of Guam. Why the Government of Guam is failing to uphold the Chamorro right to self-determination is perplexing and there is no indication that the present political status process will change. Our organization is confident that with your support we can help this unjust action and help to open the way for the Chamorro people to exercise their right to self-determination.

Si Yu'os ma'ase',

OP(IGR) wishes to thank all supporters for their contributions. Continued support and donations are still needed to continue the struggle of Chamorro people. If you are interested in joining OP(IGR), please send inquiries and donations to: OP(IGR), P.O. Box 7332, Tamuning, Guam 98911.

CHAMORRO PEOPLE'S ORGANIZATION, INC. is a 501(c)(3) non-profit organization. All contributions are tax-deductible. It has been recognized by the U.S. Department of Justice.

In memory, Phil Gutierrez, active member and supporter, who passed away this year.



Chamorro Self-Determination

Historical

For over 300 years the Chamorro people have been subject to outside nations, without the Chamorro people's consent.

Since World War II nearly all of the world's other colonies have become independent states or communities integrated into existing nations by exercising their right to self-determination.

Guam remains a possession of the United States; the Chamorro people not having exercised their right.

Legal

Articles 1(2) and 55 of the United Nations Charter proclaim the principle of self-determination and Article 73 obligates all administrations of non-self governing territories to protect and assist the people of the territories in their development towards full self-government.

This responsibility is a treaty obligation which the United States recognizes as law and which has been acknowledged and quoted by both Federal and Territorial policy statements on political status for the past two decades.

United Nations General Assembly Resolution

1514 (XV) declares that all people have the right to self-determination and by virtue of that right they freely determine their political status.

United Nations Resolutions regarding the territory of Guam reaffirms the inalienable right of the people of Guam to self-determination.

Human Rights

One of the strongest movements in recent times is the recognition of the inherent and moral rights of indigenous people, particularly those who are non self-governing. The Chamorro people fit this category on all counts and should be allowed the opportunity to decide their fate.

OPI (R) Executive Council

- Hope A. Cristobal — Chairperson
- Ron Teehan — Corresponding Secretary
- Maria Teehan — Recording Secretary
- Nerissa Lee — Treasurer
- Robert A. Underwood — Political Action
- Rosa Palomo / Chris Perez Howard — Public Awareness
- Ed Gould — Media Awareness
- Al Lizama — Materials/Arts/Brochures
- David Rosario — Community Involvement
- Sherry Smith — Petition

(OPI(R) CHRONOLOGY OF EVENTS

12/15/81 Saturday: A group of people got together in the morning at the Guam Legislature Room in Agaña for two reasons. They felt that:

1. The people of Guam needed to be educated on the meaning of self-determination;
2. The Plebiscite vote should be limited to the indigenous people of Guam.

The group called itself the "Organization of People for Indigenous Rights" whose acronym is OPI(R). OPI in Chamorro means "to respond" and the "R" stands for "rights". Officers elected that day, were: Tun Mariano Santos — Chairperson, Bonnie Minter — Vice Chairperson, Ron Teehan — Secretary and Bernadita Dunga — Treasurer. The group collected \$130 and decided to use it for bumper stickers publicizing the organization. Meetings were then held in different villages to reach out to the grassroots. Flyers explaining reasons for an indigenous vote were distributed to different villages and various Government of Guam agencies.

12/10/81: Bonnie Minter stepped down as Vice Chairperson and Eddie Cruz was voted to that position.

12/19/81: Motorcade was held to announce the planned rally. Because of heavy rains, the "round the island" motorcade was limited to the central villages where flyers were passed out.

1/5/82: Rally for the indigenous Vote was held at 5:00 p.m. at the Plaza de Espana. Father Tony Apuron, Agaña Rector, said the opening prayers and blessings. Host was Jesus Churruarua "Chamorro" and guest speakers were: Cecilia Bamba, Conrad Sinson, George Boughton, Jackson Ngriangas, Mrs. Priscilla Toyes, Robert Underwood and Tun Mariano Santos. David Camacho, Jesse Laguana and Sebastian Camacho provided Chamorro music. A skit was also presented by UOG's Chamorro Club. And, former Senator Richard Taitano's letter supporting the cause was read at the rally. Alejandro Lizama created a design depicting the organization's struggle which was used on T-Shirts.

1/7/82: A petition drive to limit the January 30 Plebiscite to the indigenous people began. The drive gathered 3,000 signatures. This petition was later presented to the United Nations in Japan by Ron Teehan and David Rosario.

1/9/82: Some members of the organization had a private meeting with Pedro Sanjuan at 11:45 a.m. at Government House. Though the scheduled meeting was for 10 minutes, the actual meeting lasted 25 minutes. Two important points stated at the meeting were:

1. Sanjuan acknowledged Chamorro existence by saying that unlike the Virgin Islands and Puerto Rico, the Chamorros still control the

government and the political system.
2. Sanjuan will talk to the State Department concerning the indigenous vote.

1/4/82: Bill 609 was heard by the Legislature Committee on Criminal Justice. Testimonies against Bill 609 were given by members and supporters of the Organization. This Bill did not pass Committee because of a lack of quorum.

1/15/82: A cable was sent to the United Nations in New York requesting support of the indigenous vote. A similar cable was also sent to President Ronald Reagan.

1/20/82: Tun Mariano Santos was made Honorary Chairperson and Chris Perez Howard was voted Chairperson.

1/25/82: Nerissa Lee and Marie Pablo gathered signatures of all but one (Nicolas Francisco of Mangilao) island Commissioner requesting that the Plebiscite be delayed until the question of the indigenous vote was settled.

1/26/82: B.J. Cruz, lawyer and member, filed an injunction to stop the January 30 Plebiscite in the District Court. Since Judge Ciriobal Dueñas was off-island, Judge Abbate appointed Judge Raker to hear the case. It was "thrown out" because the hearing was said in the wrong court. It should have been heard in the Superior Court.

1/28/82: A similar injunction was filed in the Superior Court, presided by Judge Ramon Diaz. Case was thrown out because "a taxpayer cannot enjoin an election", and in both Courts, the merits of the case was never discussed.

1/29/82: The Organization sent Ron Teehan and David Rosario to the United Nations Office in Japan for the following reasons:

1. To deliver a statement of protest on the conditions under which the January 30 Plebiscite was being held, i.e., the failure to limit the vote to the indigenous population.
2. To deliver the petition requesting the Plebiscite to be limited to the indigenous population.
3. To lobby with various embassies in Japan for support.

7/29/82: The Organization sent Chris Perez Howard, Robert Underwood and Ron Teehan to the United Nations in New York. They were heard by the Committee of Twenty-four. The delegates delivered a presentation explaining the situation of Guam and asked for a resolution supporting the rights of the indigenous people of Guam.

11/18/82: The Organization's representative, Nerissa Lee, presented the organization's position on self-determination to the Micronesian Education and Solidarity Conference held at the Legislature's Session Hall in Agaña.

12/21/82: Chris Perez Howard stepped down as Chairperson and Hope A. Cistobal was elected Chairperson. Ron Teibon remained as Corresponding Secretary, Maria Teibon was voted Recording Secretary and Neressa Lee was voted Treasurer.

12/20/82: Three OPI(R) members visited with Governor R.J. Bordallo in his Transition Office in hopes of establishing communication on the Chamorro self-determination issue. A copy of OPI(R)'s position and presentation to the United Nations was given to the Governor. One important suggestion made to the Governor was that the suggestion of who is indigenous can be readily requested from the U.S. Congress.

2/16/83: Bill 100 was heard by the Legislature's Committee on Justice, Federal, Foreign and Legal Affairs. OPI(R) Chairperson gave a written testimony against the bill and received a copy of OPI(R)'s presentation to the United Nations.

DISCRIMINATION

The central position of OPI(R) is that self-determination is the legal right of a people that has historically been denied the right to freely choose their political future. Such a right does not belong to pieces of land, but to people. It is a right that is inalienable meaning that it cannot be bought, sold or transferred. To allow any individual freedom to participate in a self-determination process that was clearly intended for the "Guamanian people" is in fact to discriminate against and violate the rights of the Guamanian people.

Historically, it is Chamorro people who had an anomalous, unclear, relationship to the U.S. Government. The Chamorro people, who were renamed Guamanians in the post World War II period, never participated in a binding plebiscite on their own future. Changing U.S. policies on entry into Guam and Congressional decisions about Guam should not impede hinder or discriminate against this inalienable right.

OPI (R) position does not deny anyone any rights, since non-Chamorros were never promised implicitly or overtly a right to Guam's self-determination. This process of self-determination began after World War II and always has been stated in all U.S. and United Nations documents as a right belonging to the Guamanian or Chamorro people.

To discriminate against someone's rights is to recognize that others have a right in the beginning. All of the citizens of major nations in the Pacific rim and the peoples of the islands have begun to or have already exercised their right to self-determination. For these same individuals to now participate in the Chamorro people's right is the clearest and most flagrant form of discrimination.

THE QUESTION OF IDENTIFICATION OR, WHO IS INDIGENOUS?

Pages

The question of identifying the Chamorro people for purposes of political self-determination has frequently been raised more as an obstacle to debate than as a serious question. The Chamorro people are a readily identifiable ethnic, social and historical group. For purposes of self-determination, OPI (R)'s position is that all Chamorros who are currently on Guam are those who have the legitimate right to self-determination freely recognized by the United States after World War II. Politically and historically reliable sources of data are as follows:

1. The 1940 U.S. Census
2. The 1948 U.S. Navy Census
3. The 1950 U.S. Census
4. Those who obtained citizenship through the Organic Act.

In all the above, those individuals who were clearly Chamorros or Guamanians are clearly identified. The direct descendants of these individuals also possess the right of self-determination. Chamorros who currently live off-island could reclaim, this right by establishing residence on Guam.

GUAM HYMN

The Guam Hymn was composed by Ramon Manalipay Saban in 1930. The Chamorro version was translated by Legirinas L.G. Unslain in 1974.

(Chamorro)	(English)
Fanahge Chamorro,	Stand ye, Guamanians,
Puti tano-ya,	For your country,
Kanha i natuna-ya	And sing her praise
Gi todu i lepat.	From shores to shores
Para i onra,	For her honor
Para i gloria,	For her glory
Abba i lala	Exalt our island
Sin parai.	Forevermore.
Gi Todu i tempo	May everlasting
Iasa para iha	Peace reign o'er us
Yen ghan i lengat	May heaven's blessing
Na bendicion.	To us come
Kontra i paggu,	Against all perils
Na farsadu, ham,	Do not forsake us
Vu'ce puvahi	God protect
I lalan Guam.	Our island, Guam.

Real Global Telegram

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 MR. CHRIS PEREZ HOWARD
 P.O. BOX 2991 AGANA, 969 10
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Real Global Telegram



OPI(R) member Bennett Dunga poses the question of Chamorro right to self-determination at a meeting with Pedro SanJuan, assistant interior secretary for territorial and international affairs, and SanJuan aide Chuck Downs at Government House.



Political action chairperson Robert A. Dardempford (left), OPI-R chairperson at New United Nations, accompanied by Chris Perez Howard, former chairperson, and secretary Ron Teahan, Jr.

Text of Statement at United Nations

Text of Statement at United Nations

OPI (R) PRESENTATION TO THE SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION OF THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

A very warm Hafa Adai from the people of Guam. We are the official representatives of a group called the Organization of People for Indigenous Rights (OPI-R). Our group's main reason for existence is to insure that the rights of the Chamorro people are understood, respected and, most importantly, honored by the political entities which currently exercise some measure of control or influence over the future of the Chamorro people. These entities are namely the Government of Guam, the Government of the United States and your Committee on behalf of the General Assembly of the United Nations.

There were many alternative paths available to us in structuring our presentation today. We want to be sure that the information, ideas and sentiments which we present are accurate and reflective of a significant portion of the population of Guam. We are also concerned that we do not take up your valuable time by presenting information

which is readily available to you. However, we do not wish to miss this important opportunity to present much of the relevant information regarding our position. Consequently, we have organized our presentation into three distinct parts. We hope that you will bear with us while we present to you the Chamorro perspective on the question of political self-determination for Guam. We can state without exaggeration that it is the perspective of those who are the true people of Guam.

Our statement is divided as follows:

- I. The Chamorro People, Colonization and Self-Determination
- II. Efforts to Exercise Guam's Political Self-Determination
- III. Obstacles to Chamorro Self-Determination and Some Solutions

Please recognize that this is a particularly emotional time for us and if we appear vituperant toward anyone, we apologize for it in advance. It is a particularly critical juncture for us in the history of the Chamorro people and the failure of any agency to act at this time cannot be interpreted by us as anything less than an uncaring or insensitive attitude. We believe this to be the first time any individuals from Guam (who are not connected with the U.S. government) have made a presentation before a United Nations body. We, as individuals, have risked much in making this

journey to New York, including the scorn of those who misunderstand our position and those who see us as agitating to undo the harmonious relationship between Guam and the United States. We cannot help but have the feeling that in making this presentation, U.S. government representatives may interpret our statements in a negative light. For many in Guam, the idea of going to the United Nations is seen as dangerous and likely to render the United States Government Trusting in your good judgment and the characteristic American belief in fair play, we know that all of officials will be sympathetic once the situation on Guam is perfectly understood.

Before we go into the substance of our presentation, we would like to make clear three points upon which we have developed this extended statement. First and foremost, OPI-R as an organization does not advocate independence or political separation from the United States. As individual members of the organization, we have our individual preferences and opinions about Guam's future political development. However, the organization is firmly united by one belief. This belief is that political self-determination for Guam inheres in the people of Guam who have been denied political self-fulfillment for over three hundred years. Self-determination does not inhere in residences in a non-self-governing territory, especially when that residence is made possible by the existence of colonial structures. Secondly, the organization is not interested in making a blanket statement of the administering power, the United States of America. This U.S. has given much to Guam and continues to be supportive of the Chamorro people in many direct and indirect ways. The U.S., as a rule, is a generous and democratic nation whose intentions are usually beyond reproach. However, we do feel strongly that there exist certain blind spots about the political self-determination process on Guam as a result of the strong military posture of the U.S. in the Western Pacific. Guam plays a major role in this military presence. Lastly, we are convinced that OPI-R represents a majority opinion of the Chamorro people. If we were not firm in this conviction, we would not have made this journey to New York. The Chamorro people are culturally reticent to express sentiments openly and the mass media is dominated by non-natives or temporary residents on the island. Consequently, our position may not be favorably reported in the island's media, from which much of your information about Guam is extracted by your Committee's researchers.

Our trip was made possible by donations from the people of Guam. We continue to receive personal messages of congratulations and support. Furthermore, we are convinced that should your Committee respond positively to our suggestions, more people will appreciate this issue at hand. Whichever you recognize it or not, a statement from you on this issue will receive much coverage on Guam and provide a new basis upon which the issue will be further understood.

I. THE CHAMORRO PEOPLE, COLONIZATION AND SELF-DETERMINATION

Over 4,000 years ago the Marianas Islands were settled by a group of people who eventually came to be known as the Chamorros. In their isolation from the rest of the world, the Chamorro people developed a complex caste social structure and lived in relative harmony with their environment and each other. Their existence was rudely awakened by their "discovery" by Europeans and eventual settlement of their islands by foreigners. Spanish missionaries came in 1688 and brought a garrison of soldiers for the purpose of protection. Thus, the Chamorro people have the dubious distinction of being the first group of Pacific Islanders to be colonized by the West.

In the short thirty year period from 1688 until the end of the seventeenth century, war and new diseases had caused the decimation of the Marianas to a few thousand natives. Estimates of the pre-contact population have ranged as high as one hundred thousand for the entire chain. The islands were governed as a unit in the Spanish Empire until the Spanish-American War in 1898. During most of Spanish rule over the Marianas, only the islands of Guam and Rota were inhabited. The natives had been concentrated on those two islands to make them more manageable. Saipan was eventually re-populated in the latter part of the 19th century with natives from Guam.

As a result of the Spanish occupation, the people endured many changes and eventually developed a hybrid culture by blending the ancient traditions with Roman Catholicism and the practices of the Hispanic world. However, there was never any doubt that the identity of the Chamorro people remained intact. They were distinct in language and manners, and despite Spanish efforts to the contrary, the people of the Marianas never thought of themselves as Spaniards or as a Hispanic group of people. In fact, one of Spain's last governments lamented the fact that despite over 200 years of Spanish rule, the natives remained very unlike the inhabitants of the rest of the Empire.

At the conclusion of Spanish rule, the Chamorros had remained an identifiable ethnic, cultural and national group with historical roots to a time long before they were conquered by the Europeans. They defied the fact that they were the first Pacific Islanders to experience the pain of foreign domination.

We present this historical perspective not to inspire you with the story of the survival of a small, but proud group of people. This story is repeated in many parts of the world and is not unique in its plot nor its cast of characters. Rather, we present it to you so that you may understand how the forces of colonialism may work on the psychology of an entire people. Without the opportunity to control the social institutions which they lived

under, the Chamorro people were not merely subjected to the perspective of the outside world. They eventually internalized it. For many generations, the Chamorro people were told that to be Chamorro was to be inferior, ignorant and backward. Moreover, they were advised by foreign historians and administrators with suspect motives that the Chamorro people did not in fact exist. The people of Guam were told that the Chamorro had been effaced from the face of the earth and, unfortunately, many of our people believed it.

Despite academic evidence to the contrary and, more importantly the sheer tenacity of a group of people who continued to defiantly proclaim themselves to be Chamorro, many refuse to acknowledge the existence of the Chamorro people. Some of us are beginning to harbor the suspicion that this denial of the existence of the Chamorro people is calculated to facilitate the denial of their inalienable rights. It has certainly made some of the past colonial practices regarding the insensitivity to Chamorro language and culture easier since some doubt was cast on the very existence of the Chamorro people.

The islands and the Chamorro people were divided after the Spanish-American War with Spain ceding Guam to the United States and selling the remainder of the island chain to Germany. Germany subsequently lost the Northern Marianas to Japan as a League of Nations Mandate as a result of World War I. The United States eventually occupied the Northern Marianas as part of the Trust Territory of the Pacific Islands subsequent to World War II.

Although the people were split apart by the failures of international politics, the Chamorros were a unified cultural and national group with many individuals having close relations on the other side of the political boundary. The pre-World War II Naval Government of Guam recognized the identity of the Chamorro people repeatedly as did both the Japanese and American administrations of the Northern Marianas. The Chamorros were the legitimate heirs of the political destiny of the islands which they inhabited and even the most imperialistic nations in past history have recognized their distinct status and legitimate right to exist, albeit begrudgingly.

For Guam, political life under the U.S. umbrella meant uncertainty, neglect and frustration to basic human and civil rights for most of the time since 1898. Guam languished under a Naval Government from 1898 to 1950, except for a three year occupation by Japanese forces during World War II. The status of Chamorros before World War II is best characterized by the Navy Department's Court Martial Order No. 1923 issued on April 30, 1923. It read:

While a native of Guam owns perpetual allegiance to the United States he is not a citizen thereof nor is an alien and there are no provisions under which he may become a citizen of the

United States by naturalization.

While this action gave the Chamorro people no particular status, it is still instructive. If nothing else, it recognized that the Chamorros were an identifiable group for political purposes. Decisions regarding the political status of Guam, were obviously questions involving the future of the native inhabitants.

This concept had been made clear earlier in the treaty which ceded Guam to the United States; in the Treaty of Paris of 1899, the following provision applied to Guam:

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

Since 1898, the ultimate political status of Guam have yet to be decided either by Congressional action or otherwise.

During the course of naval rule over Guam, the U.S. relationship to the people of Guam was one of guardianship to ward. This fiduciary relationship can be seen in the following comments drawn from various documents regarding Guam:

The Secretary of the Navy will take such steps as are necessary to give (the Territory of Guam) necessary protection and government. (Presidential Executive Order No. 1824, 1899)

As a result of the unique interest of the Navy in the island of Guam, the natives... have been considered wards of the Navy... The inhabitants of the island have been under the special and sole protection of the Navy Department. (H.R. Report No. 1125; letter from Acting Secretary of the Navy H. Struve Hensel to Speaker Sam Rayburn, June 9, 1945)

The general policy of the Naval Government is to guard (the inhabitants of Guam) from exploitation by outsiders and to protect their lands... They are not self-supporting and require not only federal economic assistance but also careful training and supervision from their parental island government (Letter of Secretary of the Navy Claude Swanson to U.S. Senate, 1937)

It is clear from these documents that the U.S. recognized their obligations to the people of Guam as a dependent people. Moreover, it is also rather obvious that the terms "inhabitants of Guam, people of Guam, natives of Guam and the Chamorro people are all synonymous. Both in official reports and in common usage, the people of Guam were the Chamorros and no one else.

Out of the ashes of World War II, the world was swept by new trends which recognized the sanctity of self-determination and which brought new meaning to the concept of human rights. Although these ideas have not always prevailed, many of them are enshrined in the United Nations Charter, one of the legacies of World War II.

Both new nations and the old colonial powers

recognized that dependent peoples should no longer be subjected to the whims of the nations which governed them. These new ideas gave birth to the Trusteeship System and the Declaration on Non-Self-Governing Territories. Recognizing its responsibilities on the matter, the U.S. voluntarily placed Guam on the list of non-self governing territories in 1946. By Guam's continued presence on that list, the U.S. continues to recognize the existence of a dependent status for the people of Guam and acknowledges that self-determination has not yet been exercised.

In the administering power's first report to the United Nations in 1949, the report describes the people of Guam in the following manner:

People—The natives of Guam are called Chamorros. The origin of the ancient Chamorros is obscure, but it is probable that they were a group that became detached and isolated in the Marianas Islands from the proto-Malays (sic) in their migration eastward from the mainland of Asia.

Later in the report, the U.S. states that the 1901 "Guamanian" population was 9,630 and that the 1946 Guamanian population was 22,898. The 1946 report further states that although the Guamanians are conversant in English, "they continue to use the ancient Chamorro tongue." It also lists the civil status of the "inhabitants of Guam" as nationals of the United States.

On the basis of this initial report by the U.S. to the United Nations, it is obvious that the people of Guam being discussed for the purpose of fulfilling the obligation under Article 73 are, in fact, the Chamorro people. The term "Guamanian", which was invented after World War II, was and is synonymous with the term Chamorro. Today, the common use of Guamanian as being an ethnic marker (as being identical with Chamorro) is still prevalent on Guam. Of even greater significance, the fiduciary status (readily acknowledged to exist under Naval administration) had become the non-self-governing status as described under Article 73. We need not remind you that the Charter is a treaty and as such, functions as law within the U.S. as provided for in the U.S. Constitution.

Part of the difficulty of those who wish to pursue legislative arguments has been the term "Guamanian." After World War II, the term Chamorro fell into disuse for official purposes and the term Guamanian was used instead. In recent years, the term Chamorro has become increasingly used for purposes of identification on Guam. However, the federal government still utilizes the term Guamanian as a national origin term for Chamorro. In the 1980 Federal census, Guamanian was included as the term embodying those who are Chamorros (except for the Northern Marianas Chamorros). It is time that U.N. Resolutions and U.S. Reports make it clear what is meant by the term Guamanian people. From the historical record, it is obvious that it is the Chamorro people that are in a dependent status to

the U.S. and consequently, have not yet engaged in an act of self-determination.

This document which most clearly acknowledges the separate political existence of the Chamorro people is the Organic Act of 1950. When it was first passed by the U.S. Congress, it included a provision which gave Chamorro preference in government promotions and appointments. Aside from being further evidence of this fiduciary relationship, it gave legitimacy to the notion of special rights for the natives of Guam. It read:

The Governor... in making appointments and promotions, preference shall be given to qualified persons of Guamanian ancestry. With a view to insuring the fullest participation of Guamanians in the Government of Guam, opportunities for higher education and in-service training facilities shall be provided to qualified persons of Guamanian ancestry.

In a more significant part of the Organic Act, the U.S. citizenship provision declared the people to be U.S. citizens according to two criteria. One required being native-born and the other required ancestry on Guam from before 1898. Failing that, it amended the Nationality Act of 1940 to include a new subparagraph "Guamanian and persons of Guamanian descent."

In the only Congressional act that ever openly altered the political status of Guam, it is clear that it was on behalf of the Chamorro people that legislation was being passed. However, they were officially called the Guamanian people. It is instructive to note that despite the Organic Act, the U.S. continued to submit reports on Guam to the U.N. in recognition of the fact that full self-determination had yet to be exercised. Indeed, how could such an assertion be made when the Organic Act originated in the halls of the U.S. Congress and was not even given the benefit of a perfunctory referendum.

Since 1950, both provisions have been repealed from the Organic Act without the knowledge or agreement of the people of Guam. However, this does not alter the reality that the Chamorros are a distinct national people with political legitimacy to pursue self-determination.

Guam has changed significantly since 1950. The Chamorro proportion of the civilian population has continued to drop rapidly to the point where the natives are approximately 50% of the population. The fact that the U.S. government controls only two-thirds of the territory from which it receives through its immigration and Naturalization Service and allows free access from the U.S. through so-called rights of U.S. citizens to travel freely within U.S. borders, has contributed to this reality. Moreover, the application of U.S. Supreme Court decisions regarding residency for voting has meant that any U.S. citizen can come to vote in any Guam election as soon as they get off the plane.

Historically, many U.S. citizens came to Guam as a result of military activities and decided to

determination was the aforementioned White House Task Force Report issued in 1973. Interestingly, the Report acknowledged the applicability of the U.N. Charter to the U.S. territories in terms of the right to self-determination. However, while acknowledging this U.S. responsibility to its dependent peoples, it studiously avoided advocating binding plebiscites and instead offered only the possibility of discussion. Moreover, it seemed to foreclose the possibilities of statehood (full integration into the American system) and independence. In relationship to the latter, the report read that "independence, at least for Guam, would be so disadvantageous to the United States as to raise the possibility of U.S. resistance."

As the issue of self-determination became more serious, the question of whose self-determination was at stake became similarly serious. A Pacific Daily News Editorial on October 2, 1973 asked the question of who the people of Guam are? Although the answer for the purpose of self-determination was hinted at, it refused to take a clear stand. At least the question had surfaced openly. Continual in-migration in the 70's had made the issue important, but volatile.

It was in this situation that the latest step to resolve the issue of self-determination was engaged in by the Government of Guam. In 1980, the local legislature's P.L. 15-128 established the Commission on Self-Determination and appropriated \$150,000 towards Commission operations. Although there are doubts about the value of the strategy advocated in the law for the resolution of Guam's political status, it represents yet another attempt by the Government of Guam to take unilateral action.

In the Commission's first meeting in 1980, one of the members, Senator Richard Taitano, asked about the right of the Chamorro people to determine their fate. The other members were not ready to take up the question and Senator Taitano refused to attend any other meetings in protest. Taitano, as a former Director of the Office of Territories in the U.S. Department of Interior in the early 60's, was well acquainted with the issue of self-determination.

The Commission on Self-Determination avoided the question of Chamorro self-determination until May 21, 1981 when it was openly discussed at a Commission meeting. Two of the task forces developed under theegis of the Commission recommended that the law regarding self-determination be clearly specific in its definition of the people of Guam. Despite the fact that some opponents ridiculed the subject, it became clear that the right to self-determination was becoming a major issue in its own right, occasionally dwarfing the particular options which the planned "plebiscite" was offering.

In village meetings after village meetings, forceful advocates of the Chamorro right to self-determination presented their case. Eventually, the Commission on Self-Determination recommended to the Guam Legislature on November

taken significant steps toward the resolution of political status and the exercise of self-determination. Spurred on by political developments in the surrounding islands, the Guam legislature established the first Political Status Commission in April 1973. In P.L. 12-17, the Guam Legislature took it upon itself to state that various alternatives were available to Guam, including incorporated territory, statehood, independent affiliation with another nation, commonwealth and diasociated free state. The Guam Legislature appropriated \$160,000 from Government of Guam operating revenues to carry out the task of investigating the status question.

During the course of their efforts, the first political status commission under the direction of Guam Senator Frank Lujan issued numerous bulletins which discussed the denial of self-determination to the Guamanian people. Placed within a historical framework, this could have meant only the Chamorro people. In one of Senator Lujan's articles, he urged that the granting of U.S. citizenship "has merely served to deny us the right to draft our own constitution by subjecting us to the provisions of the U.S. Constitution and the sovereignty of the U.S. Congress."

One year later, the Guam Legislature passed the first numerous resolutions regarding political status and self-determination. Resolution 326 made special mention of the Special Committee of 24 and U.N. Resolution 1514 of December 14, 1960. The resolution not only extended the Legislature's support to the Special Committee's report on Guam in 1974, it requested the U.S. Government to allow the Special Committee to come to Guam for the purpose of establishing a dialogue on the issue of political status.

In the 13th Guam Legislature, the Political Status Commission was restructured to reflect the Legislature's new membership. Acting again in referendum to accompany the primary election in September 1976. The results were not binding on anyone and since the U.S. did not authorize it, administering power was not obligated to respond in any fashion. Furthermore, the administering power ignored numerous requests from Government of Guam officials to discuss and negotiate the question of political status.

Instead, the U.S. Congress authorized the development of the Guam Constitution under the provision of a narrow enabling act. In the bitter debate over the ratification of the proposed Constitution, it became clear that the opponents wanted a resolution of the political status question. After the sound defeat of the document by a 1 margin, the President of the Constitutional Convention, Carl Gutierrez, acknowledged that the status question led to the document's defeat. Governor Paul Calvo proclaimed that the defeat indicated that the people are "ready to consider our status with the United States."

The administering power's response to the mandate to fulfill the promise of self-

unclear. Wake Island has no inhabitants, no individuals with a special relationship to the island and no history, because it has no people to remember it. All of the individuals who currently live on Wake are there because of American ownership and sovereignty, not in spite of it. This was clearly acknowledged in President Carter administration's Task Force Report on the territories in 1979. It read:

Also excluded are those islands over which the United States exercise sovereignty, but which have no native populations, e.g. Palmyra, Wake, Midway. They are "territories" as a matter of law, but they represent no policy problems of the sort dealt with herein.

II. EFFORTS TO EXERCISE GUAM'S POLITICAL SELF-DETERMINATION

Since the passage of the Organic Act in 1950, the administering power has not taken any major steps towards the resolution of the question of self-determination for Guam. Instead, it has been curiously cautious and only under the Carter administration has there been an attempt to draft a comprehensive policy statement on the political status of America's off-shore territories. However, even this commitment to self-determination was limited. In Carter's message to the U.S. Congress on February 14, 1980, the former President stated:

In keeping with our fundamental policy of self-determination, all options for political development should be open to the people of the insular territories as long as their choices are implemented when economically feasible and in a manner that does not compromise the national security of the United States.

The administering power has taken three steps which affect the political development of the island, but do not directly address the question of political status and self-determination. These were the granting of elective governorship in 1980, the creation of the non-voting Guam delegate to the U.S. Congress in 1972 and the authorization given to the island to write a constitution in 1977. The latter step had an enabling act (P.L. 94-284) which narrowly defined the powers that a Guam Constitution Convention had. Among the many restrictions that the U.S. placed was the recognition of U.S. sovereignty and the establishment of a three branch system of government returned after the American model. A Constitution drafted under such restrictions, even if approved by the people, could hardly be called an exercise in self-determination.

The administering power has not taken any major steps towards legally recognizing Guam's inherent right to self-determination nor has it encouraged the political status process. Instead, it has been the Government of Guam which has

step. The U.S. military also employed large numbers of Filipinos and other aliens in constructing the numerous military bases built after World War II. Huge camps of foreign workers and the application of U.S. immigration laws to Guam has meant a continual stream of immigrants which threatens to make Chamorros strangers in their own land. Many of the newcomers to Guam have made fine contributions to the island and have lived in peace and harmony with the Chamorro people. We do not wish to deny them the respect and dignity which people all over the world deserve by being a fellow human being. However, we do ask that our right to determine our political destiny be recognized and that as long as we have not exercised our option, Guam's ultimate status has yet to be determined. An inalienable right to self-determination has yet to be exercised fully on Guam because the people of Guam (the Chamorro people) have been denied their rights in the past. Immigrant citizens, U.S. citizens from Wisconsin or Indiana have no right to self-determination of Guam. It is illogical and unfair to allow them to move to Guam and participate in Guam's self-determination because the Chamorro people have yet to exercise their self-determination.

One of the greatest ironies of history in the Pacific is the fact that the U.S. has allowed other Chamorros to exercise their right to self-determination while Guam's Chamorros wait. The Northern Marianas have now become a U.S. Commonwealth. It is problematic whether you will ever receive a report from the U.S. on their political, social and economic progress once the Trusteeship of the Pacific is finally dissolved. If the U.S. decides not to submit any reports, they may have legal justification. The people of the Northern Marianas have decided in legally binding plebiscites what their fate will ultimately be. In their elections, only the natives of the Marianas were allowed to vote. It is a tragic irony indeed that, due to the misfortunes of colonial power politics, one set of Chamorros exercised their right to self-determination whereas the Chamorros of Guam may be swallowed up in some other process. The greatest irony of all is that both groups of Chamorros were administered by the same nation.

We have given you this information regarding the history of the Chamorro people not just for the purpose of providing a historical framework. It is an important component of our beliefs regarding the right to self-determination. Our organization believes that the concept of "self-determination" belongs to people who have a special historical relationship to a given area. It is crucial for the people that be to recognize that peoples have the right to self-determination, not pieces of land. Land enters the picture when it can be determined through reasonable interpretation of historical factors that a given group of people have a special claim to the area in question. For this sake of clarification, it is painfully to say that Wake Island has the right to self-determination because it is a dependency of the United States and the status is

12, 1982 that the "indigenous right to self-determination" be recognized. However, because of the political risks of such a position in the election for governorships and legislative seats in 1982 the very same politicians who supported the Chamorro right to self-determination began to self-penalize their names immediately after.

Even the Pacific Daily News which was suspicious in the beginning began to understand the issue in a historic framework. On November 18, 1981, editor Joe Murphy wrote, "Each people should, in my opinion, have a chance to vote for their own self-determination. The Guamanian people have never had that chance. The U.S. moved into Guam with the USS Charleston, a gang of cannon, and some Marines and physically took the island. That takeover was endorsed later by the Treaty of Paris. The island people have never had an opportunity to vote for self-determination, or to be Americans." From the island's only daily newspaper, the social definition of Guamanian is obvious. It means the Chamorro people.

The bill to recognize the right of the Chamorro people to self-determination died for lack of majority support in the Guam Legislature's Committee on Criminal Justice on January 19, a scant eleven days prior to the scheduled "plebiscite." The following day, attempts to bring the bill to the floor proved futile. Our organization consequently filed motions in the Superior Court of Guam and U.S. District Court in order to postpone the election. Interestingly, the Courts refused the motion for legal technicalities. Our attorney argued that the "plebiscite" was not binding since it was not authorized by the U.S. Congress, the body which has U.S. Constitutional jurisdiction over American territories.

OP-R also sent a two man delegation to the U.N. Office in Tokyo under the mistaken assumption that such office was more than an information center. We expressed our dissatisfaction with Guam's political status process to your Commission at that time through telegrams. We also sent a telegram to the President of the United States.

The election occurred on January 30 and only 37.2% of the registered voters participated. In our opinion, two factors contributing to this low turnout in an area which always brings out 80% of the electorate in elections. The first was the general confusion about the political status options which was prevalent among the population and the second was the indigenous right to self-determination issue. Although there was no organized boycott of the election, it was clear that the people wanted a firm decision on the right of the Chamorro to self-determination and needed further clarification of the political status options. The grassroots leaders of Guam, the village committees, attempted to make this clear to the Guam Legislature. Essentially the same statement has been made by the Commissioners to this Committee. We are submitting that statement along with this report. It is signed by all but one of the village commissioners.

Throughout this process, the U.S. government has not acted decisively. Officials of the Department of Interior have not recommended that U.S. Congress pass legislation for the people of Guam. Instead, they have written letters and made statements which say that the people of Guam will be listened to. A good example of federal inactivity on the issue was the January 1982 visit to Guam by Pedro San Juan, Interior's officer for territories. San Juan stated that the Reagan administration will do its best to support Guam in its status choice. He also assured the public that he would look into the possibility of securing federal funds for the self-determination process. In reference to indigenous rights, he told OP-R members that he would request the U.S. State Department to look into the question. To date, none of those have occurred.

In the meantime, Guam Delegate to the U.S. Congress, Antonio B. Won Pat has introduced two resolutions in the House of Representatives. The first H. Con. Res. 172 reads:

Whereas the people of Guam have never freely chosen the form of their present association with the United States having been ceded to his country by the Spanish government in 1898; and Whereas successive United States administrations since that time have continued to be publicly committed to the fundamental principle of self-determination for the people of Guam; and...

With the historical context set by the resolution, it is clear who the people of Guam are. The resolution's intent was to have the Congress take the "opportunity to reaffirm its commitment to respect and support the right of Guam to determine their own political future through a peaceful, open and democratic process."

It has not been passed by the U.S. Congress. A second resolution (HR Con Res 114) was again introduced by Won Pat. It is essentially identical to the first. No action has been taken on either to date.

This brief review of the steps taken to resolve the political status question indicates that the U.S. has not seriously lived up to its commitment to give the process legal legitimacy within the Constitutional framework of the U.S. system. Moreover, as the population of Guam continues to be altered under current federal laws and regulations, the issue of Chamorro self-determination becomes more urgent.

A fiduciary relationship exists between the dependent people and the administering authority. The dependent people of Guam need the cooperation of the U.S. to exercise their inalienable right to self-determination. It is unrealistic and a violation of the obligations outlined under Article 73 to expect a dependent people to unilaterally arrange in self-determination without the support of the administering power. This is precisely the situation on Guam.

Since the first request by Delegate Won Pat to President Nixon in the early 70's to discuss

political status, the people of Guam through their elected representatives have asked for negotiations, consultations or statements relative to the political self-determination of Guam. The Guam Legislature has passed numerous resolutions during the administrations of Presidents Nixon, Ford, Carter and Reagan relative to political self-determination. In return, the U.S. has acknowledged only the receipt of such documents, but never made a firm commitment to get the process underway.

Until such time as the administering power recognizes openly the right of Chamorro self-determination and engages in serious discussions of the topic, nothing can occur. The Commission on Self-determination on Guam has fallen on hard times and is currently inactive. It has lost the financial support of the Legislature and the runoff election scheduled for September is in question. The reasons for this unfortunate reality are many and varied. However, the overriding condition is the fact that the United States has not lived up to its responsibilities by recognizing legally, in accordance with its own Constitutional provisions, the Chamorro right to self-determination. Moreover, it has not educated the people on the options available to them and has not assisted the process in a serious and concerned manner. The administering power may hide behind the logic that it does not wish to unilaterally interfere in the political status process on Guam. However, the reality is that the U.S. has Constitutional provisions for such an eventuality and the U.S. is obligated to facilitate the process by its own democratic ethos and signature to the U.N. Charter.

III. OBSTACLES TO CHAMORRO SELF-DETERMINATION AND SOME SOLUTIONS

In this section, we will outline the main impediments to the free and unimpeded exercise of Chamorro self-determination.

The most significant obstacle to the right of the Chamorro people to engage in an act of self-determination is the lack of seriousness attached to the question by the administering power. Under the Treaty of Paris, and Article Four of the U.S. Constitution, the U.S. Congress has plenary power over the territories of United States. Their legal jurisdiction on the issue is not in dispute. Rather, we are hopeful that they exercise it by recognizing the right to self-determination of the people of Guam. In keeping with the provisions of the United Nations Charter, Article 73, such recognition should be specifically related to the people who are historically a non-self governing people. This cannot be interpreted in any reasonable fashion as treating any other people than the Chamorro when discussing the case of Guam. Thus, based on documents and reports issued by the administering power, it is clear that the administering power has failed to take the political status process seriously by failing to legal-

ly recognize this inherent right in accordance with its own constitutional provisions.

Part of the problem is that the island of Guam simply does not have enough presence in the psychology of American politicians to require serious attention. Outside of the Pentagon, there are only a few people in Washington offices who are actually concerned about Guam's future. It is simply too small and too insignificant to worry about. Yet, it is precisely for these kind of reasons that the Non-Self Governing Territories system was organized. The review process which you represent is designed to give the small dependent people of the world an opportunity to be taken with greater seriousness.

Of even greater significance is the presence of military bases on Guam. Guam's image to the world is not that of an island society struggling to survive as a political and social entity. Rather it is tied up with overwhelming reality of the presence of the U.S. military in large numbers. Your Committee has taken the stand that the presence of military bases should not be an impediment to the exercise of self-determination on Guam. Yet, any serious student of politics would recognize that it ultimately has a great deal of bearing on the question.

Approximately one-third of Guam's current acreage is devoted in military purposes. Guam represents an essential important component of America's advance defense posture on the Pacific and extension of political and military influence in the region. Viewed from the U.S. point of view, it would be foolhardy to jeopardize all the current benefits which accrue to the nation's foreign and military policy for the sake of Chamorro self-determination. Even if the eventual outcome were sure to be favorable, such a risk would simply be unusual to take for the sake of political principle. For example, the slim possibility of Guam's independence was categorically rejected on this basis by the White House Task Force Report in 1979 when it suggested that independence would be resisted by the U.S. It was noted in the report that this was especially applicable to Guam's case because of its strategic location. Geography and international intrigue have played a crucial role on the Chamorro people. By virtue of having been born on a strategic piece of property, they apparently must be denied the right to self-determination.

The administering power has also contributed to the general state of confusion on Guam by failing miserably in the past to advise the Chamorro people of their inherent right to self-determination. The administering power has studiously avoided the question of any inherent or residual sovereignty on the part of the Chamorro people by discussing self-government within the American political structure as if it were a foregone conclusion that the island must always be a part of the American political framework. Actions such as the Organic Act and the enabling legislation for the Guam Constitution of 1977 are indicators of this tendency. To behave legally in

determination ara in fact the Chamorro people, your Committee should encourage the administering power to insure:

That all binding plebiscites and referendums relative to the question of Guam's ultimate political status must recognize that it is the Chamorro people who have not yet engaged in self-determination and it is only they who shall be allowed to participate.

We urge the strongest possible terms in this matter and fully believe that no political status of Guam which does not proceed from an act of self-determination by the Chamorro people alone is valid.

Our last recommendation relates to the operations of your Committee. In view of the fact that the people of Guam are generally confused and uninformed about the role of the United Nations, your committee should:

Make every effort to visit Guam and to advertise your availability to hear the concerns of individuals, organizations and perspectives from whatever source on the political and social development of Guam.

We recognize that this lengthy statement contains many items of information which you may already have. However, we felt compelled to deliver our statement in this manner so that you can understand the depths of our sentiments regarding this issue. We have not come to you as a court of last resort. Instead, we come as representatives of a small group of people which Article 73 is designed to protect. We trust that our presentation has made the point amply well that self-determination inheres in people and not land. In the case of Guam, those people are obviously the Chamorro people.

In sasohyo' hemyo na en rekohnisa' direchon i Chamorro. Pot' fabot, na' faanosa' gi' i mar- Chamorro cheasa para u maaditamina gi' kables na managa' hefa i dertin-niha para i lano' i lilla. Si Yu'os ma'ase' pot' i atension-niya yan si Yu'os infantezendisi.

Thank you and we will happy to answer any questions.

[We urge you to recognize the rights of the Chamorro people. Please allow the Chamorro people the opportunity to determine in a complete fashion their destiny for their land. Thank you for the attention you have given us and may God bless you. - English translation of the Chamorro.]

this fashion and then to make pronouncements to this world body that Guam does have a right to full self-determination is clearly contradictory and confusing.

The people of Guam have never been apprised of their rights under the U.N. Charter nor has the U.S. government made it abundantly clear what their obligations are. Consequently, all discussions of political status are clouded in a nexus of contradictory statements and anxieties about the future. The end result has been a variety of unilateral actions on the part of the Government of Guam and entreaties to the federal government. The net result of this activity has been minimal. It is now for anyone to assume that the Government of Guam can decide for itself the parameters of the political status process and then implement it without the open and active concurrence and support of the U.S. government.

In this last part of our presentation, we wish to present some ideas as to how the process of Chamorro self-determination can finally be undertaken with the seriousness and concern that it deserves. Please bear in mind that the rather haphazard treatment that Guam has received from the U.S. in the area of political status has led to our presence here today and made the following steps necessary in our opinion.

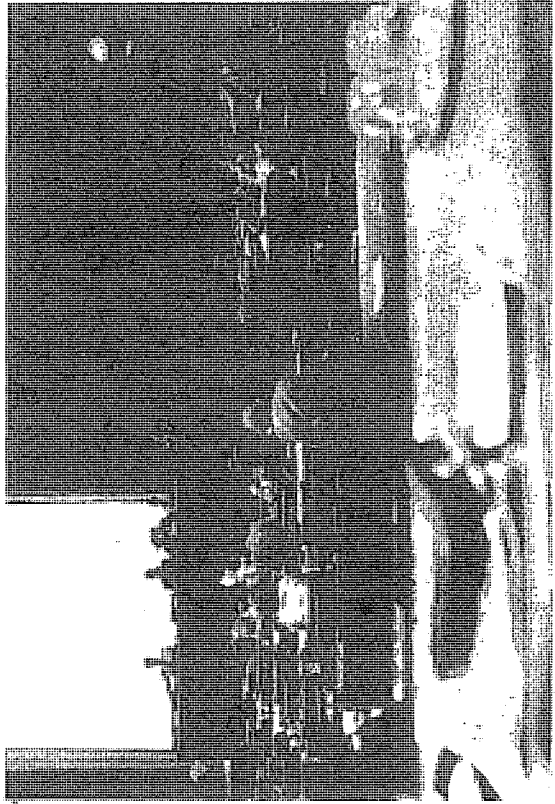
In view of the lack of federal encouragement to the political status process in Guam and the fact that full U.S. legal authority is needed to make the process a serious and solemn one, your Committee should encourage the administering power to:

Authorize and make legal a plebiscite of self-determination in accordance with the treaty obligations of the U.S. by being a signator to the U.N. in accordance with U.S. Congressional Plenary power over the territories as outlined in the U.S. Constitution.

In view of the failure of this administering power to make clear to the people of Guam their inherent right to self-determination and inform them on their status options and U.N. statements on the issue, your Committee should encourage the administering power to:

Fund and assist in conducting a thorough educational campaign on the available status options.

In view of the historical record of Guam, the establishment of a fiduciary relationship between the Chamorro and the U.S. and the countless documents which indicate that the Guamanian people referred to as having a right to self-



Delegates of Committee of 24 hear OPIR's statement at United Nations

July 22, 1972

Chairman: J.L. Frank O. Adelstein
85 1st Avenue
New York, New York 10017

Chairman and Members of the Committee of 24:
The duties of the people of Guam in the U.N. Charter are...
The duties of the people of Guam in the U.N. Charter are...
The duties of the people of Guam in the U.N. Charter are...

COMMISSIONERS

Handwritten signatures of the Commissioners.

VICE

Handwritten signatures of the Vice members.

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Testimony

Elizabeth Bowman, Ph.D.
Assistant Professor, University of Guam
16 March 2017

I am writing in support of the bills introduced by Senator Terlaje, Res. No. 51-34 (LS) and Res. No. 52-34 (LS).

The Davis court ruling and the Chamorro Land Trust threat are both very dangerous to the stability and sustenance of the Mariana Islands. The Chamorro people must be recognized as a people under the guidelines of the United Nations with the right to decolonize. The United States must take responsibility for ensuring the smooth political transition of Guam and the CNMI to modern state statuses.

The human rights of the Chamorro people have been most severely offended by the "spoils of war" mentality and actions of the United States during colonialism that continues today. The descendants of the people of Guam, and the CNMI, should have the right to engage in a decolonization plebiscite that is recognized by their colonizer.

I am not of Chamorro ethnicity. I am an American woman of Irish and German descent who has been resident in these islands since 2012. I enthusiastically support the rights of the Chamorro people to decolonize. Their right to self-determination in no way impedes or threatens any of my civil rights or those of any other inhabitant of the islands and is in no way a "racist" political perspective.

Sincerely,

Elizabeth Bowman

929-2434 (cell phone)
uaceallaigh@gmail.com (personal email)



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

(no subject)

1 message

ned pablo <nedrpablo@hotmail.com>
To: "senatorterlajeguam@gmail.com" <senatorterlajeguam@gmail.com>

Wed, Mar 15, 2017 at 10:48 AM

Dear World,

I am a native of Guam, a United States island territory in the Pacific. We natives, or indigenous people, are called Chamorro. Currently, Chamorros are facing something very similar to what the Native Americans and Native Hawaiians have been facing – the repossession of our land by the U.S. Government.

Historical Background:

Our island was conquered and colonized by Spain in the 1500s through 1898. During that period, there was near total genocide of our people as our population was greatly reduced due to our resistance to Spanish colonization which led to war, and the introduction of European diseases. Our people were raped, massacred and enslaved for hundreds of years by the Spaniards. Our land, seas, and our humanity was taken from us. Translate many of the existing indigenous Chamorro last names and you will find that even some of these names represent despair and loss experienced during this period of history.

Then in 1898, the United States took possession of our island following the Spanish-American War.

In 1941, we were conquered by Japan during World War II. We were once again enslaved, placed in concentration camps, worked to death, starved, tortured and killed by the Japanese. My grandparents, survivors of the War, never talked about these things, so we had to learn about this dark period of our history from other survivors who were willing to talk, and through books and scarce written memoirs. It wasn't until my grandma had dementia when she would display symptoms of PTSD such as flashbacks and paranoia, forcing us to board the windows because "the Japanese are coming."

It was not until 1944 when we were liberated by the U.S. from Japanese occupation. Following our liberation, our parents were subject to more oppression. I don't know much about this because once again it is often taboo to talk about such harsh realities; however, it is known that the Americans, among other things, beat our parents for speaking the native language at school. As a result, many of us are unable to speak our native language today.

And although we gained U.S. citizenship, we have never been allowed to vote for president of the United States. We were described as "savage" and "alien races" because we were not Anglo-Saxon. Therefore, we were not granted federal voting rights.

Today, there are two large U.S. military bases on our island: Andersen Air Force Base and Naval Base Guam. Guam serves as one of the greatest strategic military locations in the Asia-Pacific region. Our island is also home to one of the highest concentrations of military veterans among U.S. States and territories. One in eight adults on our island have served in the armed forces. As of 2013, the Dept. of Defense controls nearly 36,000 acres of Guam land, or approximately 1/4 of the island. If that area is concentrated, it would be as large as Inalahan, Malesso, Talofoto, and Humatak combined.

Today:

Following a discrimination complaint filed by a non-native resident, the Dept. of Justice, in a letter to our governor, stated it completed an investigation into possible violations of the Fair Housing Act in Guam's land-use policies and practices under the Chamorro Land Trust Act. The Chamorro Land Trust Act allows

natives to lease certain lands for 99 years for \$1 each year. This allows natives to lease some of the lands that were seized or otherwise acquired due to colonization. This is our government's version of Native Chamorro reservations. This land, potentially, could be designated for natives so that in the event much of our island is bought out by non-natives, and should we continue to become more and more of a numerical minority, we would still have some land to facilitate our social, cultural and economic well-being to secure our existence on our island.

However, the U.S. Government believes that this is discrimination, and that these designated ancestral lands should be open to all people, natives and non-natives alike.

Many Chamorros believe that this means that the designated lands -- essentially Native Chamorro reservations -- are once again being claimed by the U.S. Government and non-natives. Many believe that this is equivalent to Native American reservations being stolen once again by non-natives, and equivalent to the repossession of Hawaiian land from Native Hawaiians.

My people were here long before anyone who massacred, raped, enslaved and colonized us; and these very same people are once again trying to steal the little that we have, and threaten the dignity we and our ancestors have long fought and died for. The land that gave us life as a people. The land that was our mother and that gave our mothers life. We ask, why do they continue to take that which is sacred to us only to satisfy their greed? How can you claim something that was never yours and yet stolen over and over again? It is less than 33 miles, but it means everything to us. These lands do not just secure our physical and economic existence, but rather, they spiritually define who we are as a people and what little we have left as a result of colonization and genocide.

In conclusion, I leave you with words that are truer today, more than any other day in modern Chamorro history:

Ginen i mas takhelo' gi Hinasso-ku,
i mas takhalom gi Kurason-hu,
yan i mas figo' na Nina'siñã-hu,
Hu ufresen maisa yu' para bai hu Prutehi
yan hu Difende i Hinengge,
i Kottura,
i Lenguahi,
i Aire,
i Hanom yan i tano' Chamoru,
ni'Irensiã-ku Direchu ginen as Yu'os Tãta.
Este hu Afitma gi hilo' i bipblia yan i banderã-hu, i banderan Guãhan.
Fanohge Chamoru.

Translation:

From the inner-most recesses of my mind,
From deep within my heart,
And with all my might,
This I offer.
To protect and defend
The Beliefs
The Culture
The Language
The Air
The Water and The Land of the Chamoru.
My heritage comes directly from God,
This I affirm on the Bible and my Flag
- The Flag of Guahan.
Stand Up Chamoru.

We request that you share this message so that the world can hear our voices and the voices of our ancestors. We desperately need you.

In solidarity with all indigenous peoples fighting for their rights, we sincerely thank you for your support and love.

Saina Ma'åse,

Genedine Mangloña Aquino

- Please share this in support of the Chamorro people, and in solidarity with all indigenous people fighting for their rights.

Sent from my Samsung Galaxy smartphone.



GUAM ELECTION COMMISSION

Kumision Ileksion Guåhan

Your VOTE is your voice. ✓ BOTA ya un ma kuenta.



March 16, 2017

Honorable Therese M. Terlaje
Chairperson
Committee on Culture and Justice
I Mina'Trentai Kuattro Na Liheslaturan Guåhan
Guam Congress Building
162 Chalan Santo Papa
Hagåtña, Guam 96910

Håfa Adai Chairperson Terlaje,

Si Yu'os ma'åse' for the invitation to the Public Hearing on Resolutions 51-34 and 52-34. The duties of the GEC are prescribed by law and by court decisions interpreting those laws. Before the Decision and Order issued by District Court of Guam in *Arnold Davis v. Guam, et al.*, the GEC had for a number of years been carrying out its duties to register and promote the registration of Native Inhabitants of Guam. In light of the ruling from the District Court, the GEC has ceased all activities related to the registration of Native Inhabitants of Guam. If there is a change in the Court's order, or if the law changed, the GEC will move forward accordingly.

Sinseraamente,

Maria I.D. Pangelinan
Executive Director

cc: Honorable Michael F.Q. San Nicolas, Chairperson, Committee on Rules

Vice Speaker Therese M. Terlaje

MAR 16 2017

Time: 10:51 am

Received by: SMAN

414 W. Soledad Ave. • GCIC Bldg. Ste. 200 • Hagåtña, Guam 96910

671. 477.9791 (tel.) • 671. 477.1895 (fax)

vote@gec.guam.gov (e-mail) • <http://gec.guam.gov> (website)

Hafa Adai, my name is Jamela Adapon Santos. I am the daughter of Nicolas Mercado Santos, and the late Emelita Adapon Santos. My ethnic origins are from San Juan, Batangas, Philippines, where my mother was born, and San Fernando, Pampanga, Philippines, where my father was born.

I was conceived, born, and raised here on the island of Guam.

I have called Guam my home. I have left home, and I have returned home. Guam is the only place I know as home.

And even though I breathe the air I breathe; eat foods from the rich soil of this blessed land; drink of the waters; swim in the ocean abundant with life, even though my existence today is shaped and supported and nurtured by Guam, my *home*, I do not claim any identity as Chamorro, or as a *native inhabitant*.

That is not for me to claim.

I am clear that my people are from the Philippines. I am clear that the blood that runs through these veins is from a lineage of Filipinos and Filipinas whose ancestry comes from the Philippine Islands. Maybe at some tumultuous point in my adolescent years I claimed Spanish ancestry because I wanted to be associated with the supposedly privileged and desired lighter skinned folks, but I never claimed to be Chamorro, nor have I demanded to have the same status or rights as the indigenous people of this island.

That is not for me to demand.

The plaintiff, Arnold "Dave" Davis argues that his rights are being violated. Dave Davis is described as a "white, non-Chamorro male" who is a resident of Guam. Again, Arnold "Dave" Davis is arguing that his rights are being violated.

As a person of Filipino ancestry who calls Guam home, I do not feel that my rights are being violated because I cannot participate in the Political Status Plebiscite. If the question that came about at the very beginning was asking what the Chamorro people want their political status to be because it was **FORCEFULLY CHANGED FOR THEM** by their colonizers in the first place, then why in the world would I think that I have any right, or any say in this vote?

This vote is not for me. It's for my Chamorro brothers and sisters, mothers and fathers, nanas and tatas. It's okay. I stand by you. I want you to be able to say how you wish to govern yourselves, make rules that make sense for you again. Because those were taken away from you against your wishes.

I think that I have heard crazy talk like, "If the Chamorros change their political status, you could be kicked out of Guam. They'll tell everyone who's not Chamorro to leave." It makes me laugh, and also it makes me really sad. Sad, not because I believe

that will happen. Sad because people think so black and white like that. The Chamorro people, like many indigenous people know--they have always known--about how to maintain balance and harmony. Colonization has been toxic. Colonization has poisoned the atmosphere, the psyche, the spirit of a people who danced and chanted in harmony, who fished and hunted and harvested with balance, who weaved, sailed, and navigated throughout Oceania.

The Chamorro people know harmony.

And somehow I am not afraid of getting "kicked out." I don't hear future voices saying, "Hey you Tagalog! Go home! Get the fuck out of my island!" I don't hear that. I don't believe that that is going to happen.

I believe that the Chamorro people just want to find that place of balance and harmony again, and so long as everyone else's rules and laws and statutes blanket and stifle the island, it will be very tiring, and a lot of work to find that harmony, that balance once again.

May I make this plea to my Filipino brothers and sisters to understand what it means to be an ally. Know that we can go back to the Philippines and, for the most part, know that we govern ourselves. We live on the lands of someone else who do not get to make their own rules. In the spirit of reciprocating or maintaining balance, we must be allies.

I am in support of the *appeal* of the Dave Davis case.

Saina ma'ase. Maraming salamat po.

ROBERT A. UNDERWOOD
Box 3159 Hagatna GU 96932

Senadora Therese Terlaje,
Leheslaturan Guahan
Hagatna, GU

Buenas yan Hafa Adai,

Kon dangkolo na respetu, hu presenta giya hagu yan i membron i Lehislaturan Guahan i siniente-ku put i direchon i manChamorro para u ma disidi i destinon-niha. Sin hafa na dinida, gaige i islan Guahan gi presente na estao pulitikat ginen i fuetsan i taotao san hiyong ni' humalom yan maekstende i aturidat-niha. Taya' na mana'e' i Chamorro i upotunidad gi fotmat na manera para u ma'aksepta este.

En lugat di manmafaisen i Chamorro, ma aplika i lai, i sistema yan i fuetsan-niha para u mana'siguru na nigai'an na u mana'e i Chamorro este na upotunidad. Estaguiya i sustansia-na i disision gi kaoson Sinot Davis gi Kotten Fidirat. Manhalom, ma'establesi i autoridat-niha, pues manega i kinalamten i taotao yan masangani hit na yanggen un espiha hafa na remedi u para i linachen-niha, siguru na mahala halom i agaga'-mu gi me'nan i hues yan masangani hao na hago mismo lache.

Pues dibi di ta petsigi este na kaosao gi kotten fidirat yan ta apela i disision. Ti siguru yu' kao maolek humuyong-na este na chalan i kotten fidirat, lao siguru yu' na debi di ta chagi sa' gi presente esti na gaige i lugat annai sina ta na'tungo' i otro siha na taotao put i kinalamten i taotao-ta.

Si Yu'os ma'ase' nu i resulasion-mu yan puede ha' u ma'apreba nu i entiriru i lehislatura,

Si Robert A Underwood

Testimony from: **Rita Franquez**

Telephone no.: (671) 489-6253

Taken via Telephone on 03/17/17, 8:46 a.m

Testimony

8:53 a.m. She called to tell Vice Speaker T. M. Terlaje that she is really sick and can barely walk. She cannot go to the hearing this morning.

She wants the Vice Speaker to realize and to not be emotional about the law.

“The law that gave the Chamorros’ authority to vote on self-determination was given by the/through the Native people of Guam.”

(Most Importantly)****Who were made U.S. citizens by the Organic Act of Guam, 1950.**”

“And everybody is getting emotional...Just by following the law.”

She apologizes for being unable to attend and thanks the Vice Speaker.

Taken by: C. B. Kintol, Policy Analyst (8:58 a.m.)

March 17, 2017

Honorable Therese M. Terlaje
Vice-Speaker, Committee on Culture and Justice
Suite 201
155 Hesler Place
Hagåtña, Guam 96910

RE: Resolution 51 -34 (LS)

Dear Senators of the 34th Guam Legislature,

My name is Connie Rose Lujan Sayama and I am a native inhabitant of Guåhan. I am submitting this written testimony in support of Resolution 51 -34 (LS), on measures to appeal against the ruling of the District Court of Guam in the Davis v. Guam case, and in defending the rights of the native inhabitants of Guam.

Today, we stand up tall, with our right hands over our hearts, as we recite the pledge of allegiance to the flag of the United States of America. Thereafter, we struggle to find the words to our Guam Hymn, the Fanoghe Chamorro. Lastly, we end with our Guam pledge, struggling again, as we murmur the Inifresi. As we hoist our Guam flag, the Seal of Guam is **halted**, as the U.S. flag is risen first, and as the U.S. flag is lowered, for a short period, our Guam seal sways independently before it is lowered, and is **halted** once again. For too long, our Chamorro people have been stripped of their inherent rights as indigenous people of Guam. Once again, we were **halted**, as Judge Frances Tydingco-Gatewood ruled in favor of the U.S. constitution, a constitution that is not our own.

The United Nations Declaration on the Rights of Indigenous Peoples, Article 3, states, "Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Guam's political status plebiscite created a path toward self-determination for Guam's future, a decision native inhabitants have never been a part of, due to centuries of colonization.

The National Association of Social Workers, in their policy statement on Sovereignty, Rights, and Well-Being of Indigenous Peoples, "condemns oppressive acts by administering powers of government that exploit indigenous peoples," and supports, "the rights of indigenous peoples in their efforts to gain health and self-determination." By the hands of colonizers, the Chamorro people have endured the exploitation of their land and peoples, all of whom have inferiorized their inherent rights as indigenous people of Guam. Today, is no different story.

"If we jump too quickly to the universal formulation, 'all lives matter,' then we miss the fact that [Chamorro] people have not yet been included in the idea of 'all lives.'" By ruling in favor of an all-inclusive vote, we dismiss the fact that the Chamorro people were the "all," first. As the first peoples of Guåhan, these are our inherent rights, which can never be seized.

Senators of the 34th Guam Legislature, by supporting this resolution, you are recognizing that this Davis v. Guam ruling is a social injustice to the native inhabitants of Guam, and you are supporting their rights to self-determination. I support Resolution 51 -34 (LS), on measures to appeal against the ruling of the District Court of Guam in the Davis v. Guam case, and in defending the rights of the native inhabitants of Guam. Thank you for your consideration.

Si Yu'us Ma'ase,



Connie Rose Lujan Sayama, BSW

ROBERT A. UNDERWOOD

Box 3159 Hagatna GU 96932

Senadora Therese Terlaje,
Leheslaturan Guahan
Hagatna, GU

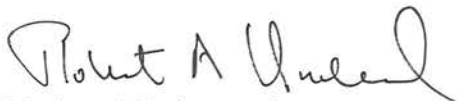
Buenas yan Hafa Adai,

Kon dangkolo na respetu, hu presenta giya hagu yan i membron i Lehislaturan Guahan i siniente-ku put i direchon i manChamorro para u ma disidi i destinon-niha. Sin hafa na dinida, gaige i islan Guahan gi presente na estao pulitikat ginen i fuetsan i taotao san hiyong ni' humalom yan maekstende i aturidat-niha. Taya' na mana'e' i Chamorro i upotunidad gi fotmat na manera para u ma'aksepta este.

En lugat di manmafaisen i Chamorro, ma aplika i lai, i sistema yan i fuetsan-niha para u mana'siguru na nigai'an na u mana'e' i Chamorro este na upotunidad. Estaguiya i sustansia-na i disision gi kaosan Sinot Davis gi Kotten Fidirat. Manhalom, ma'establesi i autoridat-niha, pues mañega i kinalamten i taotao yan masangani hit na yanggen un espiha hafa na remedi u para i linachen-niha, siguru na mahala halom i agaga'-mu gi me'nan i hues yan masangani hao na hago mismo lache.

Pues dibi di ta petsigi este na kaosao gi kotten fidirat yan ta apela i disision. Ti siguru yu' kao maolek humuyong-na este na chalan i kotten fidirat, lao siguru yu' na debi di ta chagi sa' gi presente esti na gaige i lugat annai sina ta na'tungo' i otro siha na taotao put i kinalamten i taotao-ta.

Si Yu'os ma'ase' nu i resulasion-mu yan puede ha' u ma'apreba nu i entiriru i lehislatura,



Si Robert A Underwood

Vice Speaker Therese M. Terlaje

MAR 17 2017

Time: 2:35 pm

Received by: [Signature]

BARRIGADA

Office of the Mayor & Vice Mayor
124 Luayao Lane, Barrigada, Guam 96913

March 17, 2017

Honorable Therese M. Terlaje
Chairperson, Committee on Culture and Justice
I Mina'Trentai Kuattro na Liheslaturan Guåhan
Hagåtña, Guam 96910

Re: Resolution No. 51-34 (LS) - "RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM."

Madame Chairperson and Author of Resolution No. 51-34, *Buenas yan Saludo para Todos Hamyu!* Vice Mayor Jessie P. Bautista and I, together with members of the Barrigada Municipal Planning Council submit this testimony expressing our support to Resolution No. 51-34 (LS), "Relative to supporting that the government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the Native Inhabitants of Guam."

We defend the rights and privileges of "native Chamorros" and their descendant's based on the authority and enactment of the Organic Act of Guam.

We have always maintained that the Plaintiff "*has no claim*" because the lawsuit he filed over the non-binding plebiscite on Guam's political status "*does not constitute a vote within the meaning of the Constitution, or the Voting Rights Act.*"

It has always been our position that the Plaintiff is challenging an advisory plebiscite and does not involve an election for public office. It is a poll. And in our commonsense opinion does not constitute a vote within the meaning of the constitution.

Furthermore, even if "Native Inhabitants of Guam" were determined to be an intentionally race-based classification, the Plaintiff's claim are not ripe for judicial review because there is no election to be registered to vote in on any foreseeable horizon."

Also, even if the Plaintiff's claims were ripe and the proposed plebiscite was to be held in the foreseeable future, he has suffered no injury because it is not self-executing and does not affect his political or judicial rights in any way.

In closing, we state that "*until such time as the unincorporated territory of Guam formally enters the union as a state, the "native inhabitants of Guam" are constitutionally authorized to express their desires in their own advisory plebiscite and to have those desires transmitted to Congress, the President and the United Nations.*

Vice Speaker Therese M. Terlaje

MAR 17 2017

Time: 11:54 AM

Received by: O.B. KINTOL

Honorable Therese M. Terlaje
Chairperson, Committee on Culture and Justice
Re: Res 51-43 (LS)
March 17, 2017
Page 2

Before we close, allow us to quote from the Plaintiff's own column, "*...the Plaintiff complains that he is not permitted to register for an election that he predicts 'will forever be an alluring mirage out there on the horizon,' unless the laws he challenges are changed. By his own admission, this matter is not and may never be ripe for judicial review.*"

In closing, allow us to say that it should be the colonized people of Guåhan who should participate in this exercise and those who were made citizens of the United States and their descendants by virtue of the passage of the Organic Act in 1950.

Thank you for allowing us to submit or comments on Resolution 51-34 (LS).

Sinseramente,



JUNE U. BLAS
Mayor



JESSIE P. BAUTISTA
Vice Mayor

Attachments:

**TESTIMONY BY THE YOUNG MEN'S LEAGUE OF GUAM
IN SUPPORT OF THE FOLLOWING:**

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD
TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN
DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

RESOLUTION NO. 51-34

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO
A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE
GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT
PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE
CHAMORRO LAND TRUST ACT.

RESOLUTION NO. 52-34

SUBMITTED BY:

**BROTHER BOB PELKEY
PRESIDENT**

FRIDAY, MARCH 17, 2017

GI FINO'-TA, "Hafa Adai" Yan Misin LAGO' Na Ogga'an, Ge'heLo' Sinadora
Therese TerLaje Yan Todos Hamyo, I Manma'Gas I Tano'!,

MANGGAIGE HAM GUINI, I INETNON LALAHEN GUAHAN, KONRESPETU YAN
TININA, PARA HAGU SAINA GE'HELO' KUMITE SINADORA THERESE TERLAJE ,
PAREHU I MAGA'LAHEN GUAHAN EDDIE BAZA CALVO, YAN TODU I
MANSINADOT YAN MANSINADORA NI' MANGGAIGE YAN MANANNOK PA'GO,
YAN PARA TODU I MANAOTAO TANO', NA PARA BA IN FANACHU PARA DIRECHO-
TA, I RISULASION SINGUENTAI UNU-TRENTAI KUATTRO (51-34) YAN PAREHU
RISULASION SINGUENTAI DOS -TRENTAI KUATTRO (52-34).

MANDANNA' HIT PA'GO, KUMU UN HINANAO, GI UN SAKMAN, GI UN CHALAN,
YAN KUMU UN TAOTAOGUES, NA MUNGNGA HIT KONFOTME, YA TA KONTRA I
DIPATTMENTON HUSTISIAN ESTADOS UNIDOS NI' PARA U MA AMOT HIT NI'
MANA'I-TA TANO', GINEN I MANAINA-TA, NI' HAGAS IYO-TA, CHAGOGOGO'
TATTE GI ANSIANU NA TIEMPO.

HAMI NI' INETNON LALAHEN GUAHAN, MANATACHU HAM NU I RISULASION
NUMIRU SINGKUENTAI UNU-TRENTAI KUATTRO (51-34) YAN SINGUENTAI DOS-
TRENTA KUATTRO (52-34) NA TA KONTRA I DISISION I KOTTEN DESTRITON
GUAHAN YAN PARA IN DIFENDE I DIRECHO-TA, I TANO'-TA GINEN I ASAINA
YU'OS TATA, PARA TODU I MANAOTAO TANO' NI' MANMALOFFAN ANTES, PA'GO
YAN I MANMAMAILA' ! MANHITA MANACHU MO'NA, TA FANACHU TODU! TA
FANOHGE CHAMORU!

Gi fino Englatera -

Madame Chair and Members of Guam's Legislature.

My name is Bob Pelkey. I am the President of the Young Men's League of Guam today's marks the exact day and month 100 years ago when the Young Men's League of Guam was legally incorporated on Guam. I am here on behalf the League and all those who've come before me in the past 100 years of our rich history as the region's oldest and only Chamorro fraternity in order to register not just our support for the Guam Legislature's efforts to appeal the decision of the United States District Court on Guam as well as to thwart any threats against our Chamorro Nation, foreign or domestic but also to enter into the record the League's affirmation of the rights of the Chamorro People and all other Indigenous Peoples throughout the world.

My Brothers and I are here to remind anyone and everyone listening that the indigenous Chamorro People have suffered from historical injustices spanning centuries and that the ruling by the US District Court on Guam is yet another straw upon the back of our colonized people.

Further, the threat by the United States Department of Justice is but another splinter in the eyes of our people who toil day in and day out to sustain a living, to live in peace, to marry, love and raise a family free of political interference and imperial oppression.

To the former, the issue of Our Chamorro Right to Self-Determination...

1. the United States, through its military, suppressed our language and our culture in its early occupation of the island,... worst, the regime at the time dictated how we should speak *and* dress... the naval leadership at the time went so far as to suppress one's desire to whistle, walk at night, celebrate the feast of a patron saintⁱ or – as the League may attest first-hand during its inception - to *FREELY CONGREGATE!*
2. And, yet, here we are... 117 years later and the same United States – only this time through another separate branch of its government -- chooses to further suppress our right to self-determination, an *inherent right* as we see it 'granted to us not by man or any one government but by Our Creator, by God himself.' The right to self-determination is in conformance with international law and is acknowledged and affirmed by the United Nations whose charter and resolutions advocates for the fundamental importance of indigenous peoples to freely determine their political status and pursue their economic, social and cultural development.
3. Madame Chair and members of Guam's Legislature, from the onset of ocean travel that enabled other peoples to visit the Marianas we, as a Chamorro People, have always welcomed our guests. As history is our witness, the annals are rich with evidence and historical account that we were a strong and loving and generous people.

The fine qualities of our People, achievements and practices of our Great Chamorro Nation were known by some for hundreds of years since foreigners were first able to record such observations in their books using their languages... but it's important to note

that what was recently observed is what has been deeply held and widely practiced within our Great Chamorro Nation for thousands of years.

My point: our People's love and hospitality was freely given and we never took from our guests. This was true then and it is true today.

Unfortunately, what was true then remains true today in terms of how the United States has historically treated its overseas occupied territory of Guam. What was true in the Spanish-American War was true in World War I and World II. It's as true as the recent US District Court Decision last week, some 70 years following the war. As the world becomes smaller and international affairs become more tightly interwoven and well curated in the media, educational materials, monetary exchanges and court systems, has our more perfectly forming union learned nothing since?

My point: the only lesson we've derived from the United States District Court's decision is that Our People's love, hospitality *and* patriotism is freely given yet the United States continues to take and take, and take.

They took our lands,
stripped us of our culture,
diluted our identity and now
they are attempting to take away that one God given right to freely decide for ourselves what we as a Chamorro People would like to do for ourselves and our families devoid of imperial political interference.

We may decide to become a part of the Union with all of the rights and privileges appertaining thereto.

We may decide to become independent yet freely associate.

Whatever path it is... let us choose.

Let a People who have never had the right to determine their path for the past 400 years, a period of time spanning the Spanish Conquest on through a century of American Imperialism, have that *one* opportunity to exercise the right to choose how they would like to live out their lives.

Madame Chair and members of Guam's Legislature, now to the latter, the threat by the U.S. Department of Justice against our People for using our lands...

1. The League finds it ironic that the U.S. Department of Justice has issued a written statement expressing its concern for certain alleged injustices about how the People of Guam, through its governing structures, have decided to use government lands when, in fact, it should be chiefly concerned with how the United States itself has ill acquired native lands thereby dispossessing an indigenous People for well over half a century.

The League finds it ironic that the U.S. Department of Justice has issued a written statement expressing its concern for certain alleged injustices carried out by the People of Guam when, in fact, there is a litany of historical injustices by the United States upon our natural resources, environment and our People. It is our opinion that Such Crimes Against Humanity and Crimes Against the Environment may, perhaps, make for a more effective use of limited federal resources on issues that have greater implications throughout America most especially upon our Brothers and Sisters in other United States possessions.

Madame Chair and members of Guam's Legislature the League stands with you in pushing back against the United States on these debased inconsequential charges against the Chamorro People and our use of Chamorro Lands.

2. To anyone and everyone listening, the League sees it fit to remind the world that the Chamorro People were dispossessed of their lands and resources which prevented our People from further developing ourselves. Prior to the imperial conquest of our island we were self-governing. There was trade, health care, education, recreation and defense, for ourselves. Consistent with colonial conquest, with the occupation of our island by the United States came the possession of our lands without our consent for the purposes of war. Following the war, when the United States military no longer saw a need to use our entire island to barracks their soldiers, store their tanks or launch as many of their squadrons from Guam they returned what was deemed 'excess' properties to the local government.

For the record, what may have been deemed excess by the occupying nation has always been deemed as sufficient and necessary for our use and by our standards; for it was upon those lands and in those streams and springs and from those ocean waters that we raised livestock, harvested crop, caught our shrimp and fish, drank our water, washed our bodies and recreated with our families.

3. Madame Chair and members of Guam's Legislature the League finds it ironic that a representative from the United States Department of Justice Civil Rights Division finds suit that the Chamorro Land Trust Act discriminates on the basis of race or national origin, in violation of the Fair Housing Act, by limiting certain housing-related benefits to persons who are native Chamorros.

What of the Navy and Air Force lands and military housing? Are we, the original landowners, and native Chamorros not being discriminated against based on our race and prohibited access to such lands, housing, and natural resources?

It is the League's opinion that this is not an issue of housing and it was never their land.

In closing, the Young Men's League of Guam is in support of Guam's Legislature consideration to pass Resolutions 51 and 52.

Further, the Young Men's League of Guam further imparts this message to this body in your quest to preserve, protect and advance the interest of the Chamorro People:

Maila' ya ta fan hita mo'na, ya ta akudi este na takhelo' asunto,gi klâru yan dinanche na manera.

Mungnga hit manmumu para I direcho-ta.

Gi mistet, ta ilâo I mânu nina'siñâ-ta ya fan unu hit na hinasso yan hinanâo, kosaki todû hit manmiresi para I minâolek todû I mantaotâo-ta yan parehu para i minâolek I tano'!

Ta mumuyi kumu unu pat sanghe, lao ta fanhita mo'na kumu unu, sa' unu ha' na enimigu.

Fanohge Chamorro!

Let us fight, together or apart but let us fight for the same noble reasons and against our common enemy: oppression. And in all its forms.

Let us not fight each other because the paths that we choose are different.

If we must, let us take a different path, but may it be towards the same end goal.

Biba Chamorro!

ⁱ Governor Leary. General Order No. 4. Aug. 25, 2899

HAROLD J. CRUZ

P.O. Box 4077 • Hagatna, Guam 96932

Phone No: (671) 689-8693

harold.guam@yahoo.com

March 16, 2017

Honorable Therese M. Terlaje
Senator, 34th Guam Legislature

Honorable Benjamin J, Cruz
Speaker, 34th Guam Legislature

Hafa Adai Honorable Madam Chair, Mr. Speaker & members of the 34th Guam Legislature,

FOR THE RECORD

As a native inhabitant of Guam and a Chamorro, I hereby submit my testimony in SUPPORT of Resolution 51-34 (LS) and Resolution 52-34(LS).

Madam Chair, Mr. Speaker and all members. NOW is the time to fight! The “native inhabitants and their descendants” are tired of being marginalized. The U.S. District court of Guam has no business interfering and meddling with Guam’s decolonization process. Judge Frances Tydingco-Gatewood’s recent ruling in Civil Case #100035-17 shows a grave disrespect and insult to the U.S. Congress and the United Nations Resolution that all territories have a right to self-determination. In Judge Tydingco-Gatewood’s ruling she failed in her fiduciary

responsibility to fully interpret the constitution and laws fairly and impartially. WE strongly believe that Judge Tydingco-Gatewood's ruling was in it-self racially and politically bias!

Madam Chair, Judge Tydingco-Gatewood failed the test. She failed to ask the most fundamental question: Does Equal Protection under the 14th Amendment protect everyone? The answer can be found U.S. Supreme court case Young v. UPS. The answer, "Equal Protection may not protect everyone equally."

Madam Chair, WE have the GOD given right to "self-determination" and to determine our "political status." WE have been oppressed and under colonial occupation for over .300 years NOW is the time to fight to become a sovereign people. It is in the wisdom and vision of the late Senator Paul J. Bordallo, former Senator Hope Cristobal, Chamorro Rights Activist Ron Rivera and the late Ed Benavente, the late Senator Angel L.G. Santos, former Governor Paul M. Calvo, former Governor Joseph F. Ada and our Maga Lahi Eddie Baza Calvo (just to name a few), that through decolonization we have the God given right for self-determination.

Thousands have declared and have committed to asserting their rights as Chamorros to become a Sovereign Nation... a great Chamorro Nation! NOW is the time to fight! It's time to fight for the injustices imposed upon our people. NOW is the time to fight in our struggles. Let's continue the fight where organizations like OPI-R and the Chamorro Nation left off. The fight for the return of all federal excess lands, true liberation, the ability to control our immigration

laws, fishing rights, and free trade just to name a few. NOW is the time to fight to let our federal counterparts know that we will settle for nothing less than partners and that they don't own us. NOW is the time to fight to control our destiny! Let's not give up the fight against unfunded federal mandates and discriminatory federal court rulings.

Lets continue this fight to decide our own political status without outside inference... a decision that should be made by the "native inhabitants of Guam."

WE thank Mr. Arnold Davis for his service to the United States and his service to Guam while serving in the United States Air Force. However, Mr. Davis will only be one thing. A welcomed visitor and a colonizer.

The injustices and sufferings must stop now. Our manamkos are dying shackled and mouths taped. NOW is the time to fight for our children's future... it's time to set them free.

In closing I share a famous quote by late Senator Anghet Leon Guerrero Santos the most prolific Chamorro rights activist in this era.

"We cannot be passive or silent when human beings endure sufferings or humiliation. We must step forward and take sides. At times, we may make mistakes. But we must never make the mistake of failing to try. People deserve nothing less." –Angel L. Santos

WE join you in this fight. WE will fight a long your side! Fanohge Chamoru and Biba Chamoru!

Dankalo na Si Yu'os Ma'ase yan Put Respetu'

Harold Cruz

According to Ms. Bordallo's office, the deceased graduated from George Washington High School and attained degrees at Stanford and Harvard. He served in the U.S. Army and in 1959 started his own business, Family Finance Co. He later served the island as a member of the 11th Guam Legislature and 12th Guam Legislature. He authored the Chamorro Land Trust Act and co-sponsored the bill that created the first Political Status Commission.

The first Legislative Commission on Political Status, 1973-1974

The first Political Status Commission was created through Public Law 12-17 by the 12th Guam Legislature in 1973. It was the first official body set up to address Guam's political status as a specific issue. Unlike the previous Political Status Subcommittee and the Governor's Advisory Council, the Political Status Commission was established to provide information to the general public about the legal and political status of Guam with the United States. The commission was chaired by Senator Frank G. Lujan and was comprised of nine senators, including: [Joseph F. Ada](#), [Antonio M. Palomo](#), Adrian C. Sanchez, Francisco R. Santos, Richard F. Taitano, [Paul M. Calvo](#), Jesus U. Torres, and Paul J. Bordallo. An informational report was generated and released in September 1974.

The second Special Commission on Political Status, 1975-1976

The 13th Guam Legislature created the second Political Status Commission in 1975. The commission did not take a position on the ultimate status for Guam but was tasked with educating the public about the different political status options and to formally open negotiations with the federal government. Public Law 13-24, which created the commission, identified the specific problems the commission was to try and resolve, including shipping, immigration, greater regional participation and other restrictions to Guam's economy as a result of the Organic Act or other federal controls. Unlike the first commission, the second Political Status Commission was comprised of 15 members from both political parties and two village commissioners (mayors). Republican Speaker Joseph Ada appointed four senators of the majority party and three members from the public-at large. The Democratic minority selected three Democrat senators and Democrat [Governor Ricky Bordallo](#) selected three members of his administration. Republican Senator Frank Blas was selected as Chair of the commission and members included Edward Duenas, Thomas V. C. Tanaka, Jr., former Lt. Governor Kurt Moylan, Dr. Pedro Sanchez, and Democrats [Carl T. C. Gutierrez](#), Adrian Sanchez, Francisco R. Santos, Edward Charfauros, Delfina Aguigui, James McDonald, Eugene Ramsey and Joseph Rios. PL 13-134 expanded the membership to include appointees from the Commissioners' Council Gregorio A. Calvo and Roman Quinata.

Carmen A. Kasperbauer
Re: message to community leaders regarding Resolution 51-34 and 52-34
Today at 9:28 AM
Therese Terlaje
'Lawrence F. Kasperbauer' , Carmen A. Kasperbauer

I Carmen Artero Kasperbauer, support both resolutions, Resolution 51-34 and Resolution 52-34, namely (1) the Davis case and (2) the dispute on the Chamorro Land Trust.

My stand on both issues is that the Federal Government has discriminated the indigenous Chamorro people of Guam and their descendants since the beginning of their take over our island as a spoil of their war against Spain in 1898. We were made a colony of America and we are still a colony, never mind that American Congress passed a law making the Chamorros of Guam U.S. citizens. It was a deceitful gift of the U.S. federal government.

They had to hastily introduce the Bill and passed it without a public hearing with the natives of Guam just to legitimize their force taking of Chamorro lands. They took Upi from the Artero family before 1950 for 1/8 of a penny a square meters. They did not pay for the ifil trees, the buildings, the cattle or any other assets. This is only part of my written testimony.

Sincerely,

Senator Carmen A. kasperbauer of the 15th and 16th

Guam Legislature

Guam is a self-governing territory of the United States. The Guam Legislature is the legislative branch of the government, consisting of 15 members. The Governor is the head of the executive branch, and the Lieutenant Governor is the second in command. The Judiciary is headed by the Chief Justice of the Supreme Court of Guam.

The Guam Legislature is responsible for passing laws, approving the budget, and overseeing the executive branch. The Governor has the power to veto legislation, and the Legislature has the power to override a veto with a two-thirds majority vote.

The Guam Legislature is a unicameral body, meaning it has only one chamber. The members of the Legislature are elected by the people of Guam for two-year terms. The Legislature meets in the Capitol Building in Hagåtña, Guam.

The Guam Legislature is a vital part of the government, and its members play a key role in shaping the laws and policies that govern the territory. The Legislature is committed to serving the people of Guam and promoting the well-being of the territory.

The Guam Legislature is a democratic institution, and its members are elected by the people. The Legislature is responsible for ensuring that the government is accountable to the people and that the laws are enforced fairly and impartially.

The Guam Legislature is a proud institution, and its members are committed to serving the people of Guam. The Legislature is dedicated to promoting the interests of the people and ensuring that the government is transparent and accountable.

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March 17, 2017

Lasia Casil

~~lasia@me.com~~

688-1139

User522@

Horma. G.

Hafa Adai Senators,

Same

Si Yu'us Ma'ase for allowing me to speak today. I am here to testify in support of Resolutions No. 51-34 and 52-34. Thank you Saina Senator Terlaje for mobilizing so quickly to introduce these bills.

My name is Lasia Casil. I am the Founder and President of Save Southern Guam. I am a resident of Santa Rita and Hagat. My family is originally from Sumay.

1865 - African Americans we're granted 40 Acres and a Mule as reparations to newly freed slaves. I'm not going to sit here and compare our plight to those of the African Americans that were stolen from their homelands and enslaved. That's not my point. My point is that President Lincoln and the US government ^{took action} tried to make right what was wrong.

14th Amendment

1868 - Made all former slaves US citizens forbidding states to restrict basic rights.

1870 - Fifteenth Amendment was ratified to allow African American men to vote. This did not even include African American women. But my point is again is that President Lincoln and the US government tried to make right what was wrong.

In 1941 the US government fled our island and left us to fend for ourselves until the war ended. After that there were no war reparations. No citizenship. Not for at least another 15 years. And here and now, 67 years later, we are still 2nd class citizens.

When is the US government make things right for us? We are still fending for ourselves. We created the Chamorro Land Trust for ourselves. This is our "40 Acres and a Mule". We created the Plebiscite for ourselves. We are paying our own War Reparations from our own pockets to ourselves because the US Government refuses to step up to the plate and make things right.

With all due respect to Judge Tydingco-Gatewood and her ruling, this again proves that the game is rigged. To systematically oppress our people for over 400 years based upon our race and then turn around and use the rules put in place by those same foreigners, not our people, to deem us racists on a non-binding vote breaks my heart and my spirit. But, mind you, it also makes me stronger.

Senators there is a ~~document~~ sea monster eating away at our island bite by bite. and corner

I brought this book to share with you today. Inside is a list of names. 775 to be exact. I apologize

Twice a year we are allowed to visit Sumay. We don't need to add to this book about the lost village of Yona, or the lost village of Dededo, or the lost village of Merizo claiming all of our land piece by piece until we have The Lost Island of Guam. And then what? Do we get to come here twice a year to visit our island on Liberation Day and All Souls Day?

inclosure

→ they rather served this century as many others to come home he applied. Please Senators protect us our people, our culture, or way of life from further harm.

Si Yu'us Ma'ase

Lasia Casil

take you our land and it is our land that connects us to our culture fighting at Pago Bay Agat, Litekayan, Gon Bach

Hinasso pot i Taotao Sumay

Remembering the People of Sumay

The first effort to generate a list of persons born in Sumay and who were moved to Santa Rita after the World War II was made by former Santa Rita Commissioner Pedro L.G. Roberto in 1988. More recently, community input has been sought to update and expand a listing of individuals with ties to Sumay. The following list is presented to honor and commemorate all those many individuals whose stories of loss, adversity, and stalwart perseverance have built a legacy of strength and inspiration for many generations to come.

ABIAN, Ursulla A.	ALCANTARA, Maria Iriarte	BABAUTA, Antonia Santiago
ACFALLE, Ana Quinata	ALCANTARA, Priscilla	BABAUTA, Enrique Santiago
ACFALLE, Jose D.	ALVAREZ, Isabel Aquiningoc	BABAUTA, Felipe Santiago
ADA, Rosanne Santos	ANDERSON, Ana Perez	BABAUTA, Florpies Espinosa
AFJELLE, Ignacia Tenorio Perez	ANDERSON, Antonio D.	BABAUTA, Francisca Roberto
AFLLEJE, Sabino Acfalle	ANDERSON, Antonio Duenas	BABAUTA, Guadalupe C.
AGUIGUI, Julia Cruz	ANDERSON, Concepcion Concepcion Duenas	BABAUTA, Guadalupe Cruz
AGULTO, Antonio Perez	ANDERSON, Emilesia Tolentino	BABAUTA, Ignacio Santiago
AGULTO, Consuelo Perez Camacho	ANDERSON, Frank Lujan	BABAUTA, Jesus Camacho
AGULTO, Dolores Mendiola	ANDERSON, Gertrudez Duenas	BABAUTA, Joaquin Camacho
AGUON, Aurora Limtiaco	ANDERSON, Jesus Aguon	BABAUTA, Joaquin Santiago
AGUON, Concepcion Baletto	ANDERSON, John D.	BABAUTA, Jose T.
AGUON, Concepcion Mendiola Baletto	ANDERSON, Jose Lujan	BABAUTA, Juan Cruz
AGUON, Encarnacion	ANDERSON, Juan Duenas	BABAUTA, Juan Santiago
AGUON, Francisco	ANDERSON, Juan Leon Guerrero	BABAUTA, Margarita Santiago
AGUON, Gregorio T.	ANDERSON, Juan Lujan	BABAUTA, Marian Borja
AGUON, Lorette Anderson	ANDERSON, Lucy Duenas	BABAUTA, Mary Ann Borja
AGUON, Manuel M.	ANDERSON, Margaret S.	BABAUTA, Rita Reyes Quintanilla
AGUON, Margarita	AQUININGOC, Gregorio Baletto	BABAUTA, Virginia Espinosa
AGUON, Rosalia Quan	AQUININGOC, Isabel Duenas	BALETO, Antonio Concepcion
AGUSTIN, Delfina Sablan Santos	AQUININGOC, Isabel Santos Duenas	BALETO, Bennie Garrido
AGUSTIN, Miguel Santos	AQUININGOC, Jose	BALETO, Concepcion Sarmiento
ALCANTARA, Alfred Iriarte	AQUININGOC, Nicolas C.	BALETO, David G.
ALCANTARA, Ana Mata Espinosa	AQUININGOC, Nicolas Dela Cruz	BALETO, Engracia
ALCANTARA, Benito Iriarte	ARRIOLA, Antonio Arriola	BALETO, Francisco Concepcion
ALCANTARA, Eugenia Iriarte	ARRIOLA, Benito Arriola	BALETO, Frankie Garrido
ALCANTARA, Francisco Bueneventura	ARRIOLA, Cecelia Quitugua Lizama	BALETO, Galo Perez
ALCANTARA, Francisco Iriarte	ARRIOLA, Rosario Lizama Reyes	BALETO, Jesus C.
ALCANTARA, Gaily Iriarte	ASCURA, Jesusa Aguito	BALETO, Jose Mendiola
ALCANTARA, Joaquin	ASCURA, Jesusa Camacho Agulto	BALETO, Maria Borja
ALCANTARA, Luis Espinosa	ATOIGUE, Beatrice Cruz	BALETO, Maria Concepcion Borja
ALCANTARA, Luis Sablan	BABAUTA, Alfonsina Afleje Cruz	BALETO, Maria Perez Mendiola
ALCANTARA, Maria Duenas Anderson	BABAUTA, Amelia San Nicolas	BALETO, Vicente Mendiola

BARCZWISKI, Beatrice Mendiola
 BARIL, Charlotte Tolentino
 BENAVENTE, Estella Anderson
 BLAS, Josefina Anderson
 BLAS, Juan Alejandro
 BLAS, Maria Dumanal
 BLAS, Teresita Cruz Lizama
 BLAS, Violet Aguon Borja
 BORJA, Andres Cruz
 BORJA, Antonia Topasna
 BORJA, Antonio Concepcion
 BORJA, Carmen Aguon
 BORJA, Daniel Concepcion
 BORJA, Dolores Cruz
 BORJA, Francisco Concepcion
 BORJA, Francisco Munoz
 BORJA, Francisco Santos
 BORJA, Gregorio Concepcion
 BORJA, Gregorio Munoz
 BORJA, Harold Cruz
 BORJA, Ignacio Mendiola
 BORJA, Isabel D.
 BORJA, Isabel Lizama Diaz
 BORJA, Isabel Munoz
 BORJA, Jesusa Toves Guzman
 BORJA, Joaquin Santiago
 BORJA, Jose Cruz
 BORJA, Jose Munoz
 BORJA, Juan C.
 BORJA, Juan Cruz
 BORJA, Juan Soriano
 BORJA, Julia Perez Duenas
 BORJA, Lucas Concepcion
 BORJA, Luisa Guzman
 BORJA, Magdalena Cruz
 BORJA, Manuel Mendiola
 BORJA, Mariano Cruz
 BORJA, Mariquita Cruz
 BORJA, Rafael Namauleg
 BORJA, Ralph Aguon
 BORJA, Roque Munoz
 BORJA, Rudy Aguon
 BORJA, Soledad Aguon
 BORJA, Sylvia Quintanilla Guzman
 BORJA, Vicente Concepcion
 BORJA, Vicente Perez Concepcion
 BOYLES, Maria Guadalupe Concepcion
 BRANCH, Andrea Sablan Borja
 CABRERA, Concepcion Mendiola
 CABRERA, Rosa Quintanilla
 CAGUOIA, Teresita Nicolas Williams
 CALVO, Felicidad Borja Salas
 CALVO, Manuel A.
 CALVO, Soledad Borja Salas
 CAMACHO, Antonio Mendiola
 CAMACHO, Antonio Meno
 CAMACHO, Delores Meno San Nicolas
 CAMACHO, Florence Babauta
 CAMACHO, Isabel Borja
 CAMACHO, Isabel Flores Asano
 CAMACHO, Jesus Mendiola
 CAMACHO, Jesus Meno
 CAMACHO, Jose
 CAMACHO, Lorraine Asano
 CAMACHO, Luisa Babauta Sarmiento
 CAMACHO, Ricardo Cruz
 CAMACHO, Rosalia Taitano
 CAMACHO, Tomas Meno
 CHACO, Ana Camacho Cruz
 CHACO, Jesus Chaco
 CHACO, Maria B.
 CHACO, Soledad Perez Concepcion
 CHARFAUROS, Patricia Sablan
 CHARGUALAF, Carmen Camacho
 CHARGUALAF, Jose San Nicolas
 CHARGUALAF, Vicente C.
 CLAVERIA, Ana Mendiola Perez
 CONCEPCION, Ignacio
 CONCEPCION, Martha Lizama
 CONCEPCION, Teresita Ada
 CONCEPCION, Amanda Duenas Taitano
 CONCEPCION, Antonio Taitano
 CONCEPCION, Concepcion Taitano Mafnas
 CONCEPCION, Enrique Perez
 CONCEPCION, Enrique Santos
 CONCEPCION, Florence Toves
 CONCEPCION, Francisco
 CONCEPCION, Francisco Perez
 CONCEPCION, Gregorio Mendiola
 CONCEPCION, Hinara Perez
 CONCEPCION, Ignacio Mendiola
 CONCEPCION, Inocencio Perez
 CONCEPCION, Jose Taitano
 CONCEPCION, Josefa Ulloa Mendiola
 CONCEPCION, Joseph Mendiola
 CONCEPCION, Juan Quintanilla
 CONCEPCION, Juan Toves Perez
 CONCEPCION, Julia Mendiola
 CONCEPCION, Maria Camacho Guerrero
 CONCEPCION, Maria Leon Guerrero
 CONCEPCION, Maria Materne Ada
 CONCEPCION, Monica Tolentino Degracia
 CONCEPCION, Rosa Duenas Anderson
 CONCEPCION, Sabino
 CONCEPCION, Woodrow Ada
 CONNELLEY, Maria Carmen Sablan Santos
 CORREIA, Elizabeth Mendiola Perez
 CORRIA, Isabel Perez
 COX, Dolores Sablan Borja
 COX, Otto T.
 CRISOSTOMO, Jose Mendiola
 CRUX, Luisa Salas
 CRUZ, Adela Topasna Quidachay
 CRUZ, Ana G.
 CRUZ, Annie Pangelinan Perez
 CRUZ, Annie Perez Flores
 CRUZ, Antonia Mendiola Perez
 CRUZ, Asencion Afleje
 CRUZ, Asuncion
 CRUZ, Atanacio Afleje Cruz
 CRUZ, Charlie D.
 CRUZ, Concepcion Tolentino
 CRUZ, Eddie John
 CRUZ, Encarnacion Perez Afleje
 CRUZ, Enrique Salas
 CRUZ, Francesca Salas
 CRUZ, Ignacio Alcantara
 CRUZ, Ignacio T.
 CRUZ, James Robert
 CRUZ, Jesus Camacho
 CRUZ, Jesusa Afleje
 CRUZ, Jesusa Afleje Cruz
 CRUZ, Joaquin Reyes Cruz
 CRUZ, Jose Concepcion
 CRUZ, Jose Salas
 CRUZ, Jose Tolentino
 CRUZ, Josepha Camacho
 CRUZ, Josephine Mendiola Perez

CRUZ, Josephine Perez
 CRUZ, Juan Afleje
 CRUZ, Juan Camacho
 CRUZ, Juan Jose Crisostomo
 CRUZ, Juan Mendiola
 CRUZ, Juan Reyes
 CRUZ, Julita Sablan
 CRUZ, Luisa Borja Salas
 CRUZ, Manuel Afleje
 CRUZ, Maria Bae
 CRUZ, Maryann
 CRUZ, Michael D.
 CRUZ, Miguel Crisostomo
 CRUZ, Noel Peter
 CRUZ, Oliva Leola
 CRUZ, Oliva T.
 CRUZ, Rita Bae
 CRUZ, Robert Salas
 CRUZ, Rosa Camacho
 CRUZ, Sabino Afleje
 CRUZ, Soledad Concepcion
 CRUZ, Soledad Manibusan Crisostomo
 CRUZ, Vicente Bae
 DAMIAN, Delfin Reyes
 DAMIAN, Julita Duenas Anderson
 DAMIAN, Rosa Perez Diaz
 DEGRACIA, Dolores Taitano Tolentino
 DEGRACIA, Elena Tolentino
 DEGRACIA, Francisco Tolentino
 DEGRACIA, Herman Tolentino
 DEGRACIA, Manuel Borja
 DEGRACIA, Manuel Tolentino
 DEGRACIA, Steve Tolentino
 DEL BAR, Eleanor Anderson
 DELA CRUZ, Jose R.
 DIAZ, Consolacion Cruz
 DIAZ, Emeliana Degracia Tolentino
 DIAZ, Engracia Borja Perez
 DIAZ, Francisco Lizama
 DIAZ, Gregorio Perez
 DIAZ, Guadalupe Cruz
 DIAZ, Juan Donato
 DIAZ, Juan Perez
 DIAZ, Rosa Cruz
 DIAZ, Serafina Sablan Pangelinan
 DIAZ, Tomasa Cruz
 DIAZ, Vicente Lizama
 DIEGO, Rosalia Crisostomo Cruz
 DOYLE, Agueda Isazaki
 DUENAS, Dora Babauta
 DUENAS, Enrique
 DUENAS, Guadalupe D.
 DUENAS, Jesus Duenas
 DUENAS, Jesusa Quintanilla
 DUENAS, Joaquin Perez
 DUENAS, Jose Perez
 DUENAS, Juan L. Santos
 DUENAS, June Cruz
 DUENAS, Pedro
 DUENAS, Vicente
 DUENAS, Vicente Perez
 DUMANAL, Enrique Quintanilla
 DUMANAL, Enriqueta Quintanilla
 DUMANAL, Florence Mendiola Perez
 DUMANAL, Florence Perez
 DUMANAL, Gregorio Quintanilla
 DUMANAL, John Babauta
 DUMANAL, Thomas
 DUMANAL, Tomas Quintanilla
 DYDASCO, Felix Torres
 DYDASCO, Feliz Cruz
 DYDASCO, Joseph Cruz
 DYDASCO, Maria Camacho
 DYDASCO, Maria Cruz
 DYDASCO, Maria Perez
 DYDASCO, Richard Cruz
 ESPINOSA, Francisco Arriola
 ESPINOSA, Francisco Iseaki
 ESPINOSA, Jesus Mata
 ESPINOSA, Margarita Iseaki
 ESPINOSA, Vincent Mata
 FARLEY, Dolores San Nicolas Perez
 FEGURGUR, Dolores Mansapit
 FEGURGUR, Joaquin Santos
 FEJERAN, Ignacia Pangelinan
 FLORES, Alejo Perez
 FLORES, Delores Perez
 FLORES, Dolores Concepcion Perez
 FLORES, Gregorio Toves
 FLORES, Maria Roberto
 FLORES, Rosita Perez
 GARRIDO, Ana Aquingoc
 GARRIDO, Antonio T.
 GARRIDO, Maximino
 GARRIDO, Rachel Alcantara
 GARRIDO, Rachel Espinosa Alcantara
 GARRIDO, Ruth A.
 GOGUE, Maria Camacho
 GOGUE, Philip
 GOGUE, Roy
 GRECIA, Tomasa Espinosa
 GRISSIN, Jane Cruz
 GUERRERO, Thomas Camacho
 GUEVARA, Feliciano
 GUMATAOTAO, Dolores Perez Mendiola
 GUMATAOTAO, Encarnacion M.
 GUMATAOTAO, Francisco Mendiola
 GUMATAOTAO, Joaquin Diaz
 GUMATAOTAO, Juan P.
 GUMATAOTAO, Mae Dydasco
 GUMATAOTAO, Maria Charfauros Lizama
 GUMATAOTAO, Maria L. Guerrero San Nicolas
 GUZMAN, Alejandro Quintanilla
 GUZMAN, Alejo Concepcion
 GUZMAN, Antonio Concepcion
 GUZMAN, Antonio Santos
 GUZMAN, Beatrice Mendiola
 GUZMAN, Carmen C.
 GUZMAN, Carmen Quintanilla
 GUZMAN, Dolores Concepcion
 GUZMAN, Erminia Mae Santos
 GUZMAN, Erminia Santos
 GUZMAN, Francisco Concepcion
 GUZMAN, Francisco Reyes
 GUZMAN, Francisco Toves
 GUZMAN, Francisco Unsiog
 GUZMAN, Guadalupe Concepcion
 GUZMAN, Helen Munoz
 GUZMAN, Henry
 GUZMAN, Henry Reyes
 GUZMAN, Jose C.
 GUZMAN, Jose Perez
 GUZMAN, Jose Quintanilla
 GUZMAN, Jose Reyes
 GUZMAN, Josepha Concepcion
 GUZMAN, Juan Guzman
 GUZMAN, Juan Quintanilla
 GUZMAN, Juan Toves

GUZMAN, Maria Camacho Quintanilla
 GUZMAN, Maria Munoz
 GUZMAN, Maria Unsiog
 GUZMAN, Patrick Barcinas Anderson
 GUZMAN, Remedios Concepcion
 GUZMAN, Rita Quitugua Toves
 GUZMAN, Tomas Reyes
 GUZMAN, Vicente Toves
 HAMAMOTO, Isabel Sablan Munoz
 HAMRECK, Eddie Borja
 HAMRECK, Margaret Borja
 HAPER, Maria Arriola Santos
 HARPER, Maria Ana Santos
 HARRIS, Dean Mendiola
 HARRIS, Dolores Mendiola
 HARRIS, Forest Mendiola
 HENRICH, Efigenia Santiago Babauta
 HILES, Maria Santos Pinaula
 HUDSON, Antonio Cruz
 HUDSON, Cristobal C.
 HUDSON, Cristobal Cruz
 HUDSON, Jose Cruz
 HUDSON, Soledad Quintanilla Cruz
 IGNACIO, Felicita DeGracia Tolentino
 ISIZAKI Vicente L.
 JAMES, Francisco Borja
 JAMES, Lilly Borja
 JAMES, William Borja
 JUANICO, Maria Arceo
 JUDICPA, Concepcion Santos Agustin
 LAMORENA, Daisy Borja James
 LEON GUERRERO, Ignacio
 LEON GUERRERO, Jeanette Gogue
 LEON GUERRERO, Joseph M.
 LEON GUERRERO, Josephina Cruz Mesa
 LEON GUERRERO, Maxima Mendiola Camacho
 LEON GUERRERO, Regina Diaz
 LEON GUERRERO, Rosalia San Nicolas Perez
 LIMTIACO, Brigida Santos Toves
 LIZAMA, Ana Camacho Agulto
 LIZAMA, Agustin Aquiningoc
 LIZAMA, Brigida Guzman
 LIZAMA, Dolores Perez
 LIZAMA, Dolores Quitugua
 LIZAMA, Guadalupe Quintanilla Cruz
 LIZAMA, Jesus Cruz
 LIZAMA, John Patricio
 LIZAMA, Jose
 LIZAMA, Jose Duenas
 LIZAMA, Juan Quitugua
 LIZAMA, Lydia Pangelinan
 LIZAMA, Magdalena Camacho Agulto
 LIZAMA, Maria Babauta Dumanal
 LIZAMA, Maria Quintanilla
 LIZAMA, Robert Sr.
 LIZAMA, Rosa Babauta
 LIZAMA, Rosa Quintanilla Charfauros
 LIZAMA, Simeon Quitugua
 LIZAMA, Teresita Cruz
 LIZAMA, Vicente Duenas
 LLAMELO, Concepcion Crisostomo
 MAFNAS, Antonio Pangilinan
 MAFNAS, Antonio Santos
 MAFNAS, Enriqueta Espinosa
 MAFNAS, Jose
 MAFNAS, Rita Taitano Santos
 MANGLONA, Guadalupe Perez
 MARION, Lilian Reyes Rice
 MASAYA, Joaquina Ulloa
 MAY, Sylvia Santos Toves
 MCGHEE, Patricia San Nicolas Perez
 MENDIOLA, Ana Sablan
 MENDIOLA, Consolacion Reyes
 MENDIOLA, Consolacion Sablan
 MENDIOLA, Encarnacion Perez Perez
 MENDIOLA, Gregorio Guerrero
 MENDIOLA, Ignacio Sablan
 MENDIOLA, Jose Guerrero
 MENDIOLA, Luis Sablan
 MENDIOLA, Martin Sablan
 MENDIOLA, Martina Sablan
 MENDIOLA, Regina Guzman
 MENDIOLA, Regino Quintanilla
 MENDIOLA, Rosa
 MENDIOLA, Rosa Reyes
 MENO, Julia Camacho
 MERFALEN, Trinidad Crisostomo Cruz
 MESA, Barcelisa Afleje Noda
 MESA, Eleuterio Tajalle
 MINTER, Bernice Santos
 MORITA, George Rice
 MUNOZ, Bernadita Cruz Sablan
 MUNOZ, Dolores Sablan
 MUNOZ, Francisco Cepeda
 MUNOZ, Gregorio Sablan
 MUNOZ, Julia Concepcion
 NAPUTI, Rosalia Sablan Santos
 NAUTA, Enriqueta Tolentino Degracia
 NODA, Ana Perez Afleje
 PANGELINAN, Andrea Sablan
 PANGELINAN, Benedicto Sablan
 PANGELINAN, Cristina Perez Sablan
 PANGELINAN, Emelia Sablan
 PANGELINAN, Engracia Cruz Diaz
 PANGELINAN, Felix
 PANGELINAN, Francisco Sablan
 PANGELINAN, Jesus Duenas
 PANGELINAN, Jose Sablan
 PANGELINAN, Laura Sablan
 PANGELINAN, Lydia Guzman
 PANGELINAN, Maria San Nicolas
 PANGELINAN, Regina Concepcion Quan
 PARKE, Cristina Charfauros Lizama
 PEREZ, Ana Rivera Babauta
 PEREZ, Ana Santos Concepcion
 PEREZ, Antonia Mendiola
 PEREZ, Antonia Perez Mendiola
 PEREZ, Antonia Quintanilla
 PEREZ, Antonio Concepcion
 PEREZ, Antonio D.
 PEREZ, Antonio Lizama
 PEREZ, Antonio Namauleg
 PEREZ, Asuncion San Nicolas
 PEREZ, Daryl Quintanilla
 PEREZ, Dolores Espinosa Sablan
 PEREZ, Dolores Sablan
 PEREZ, Dolores Santos Toves
 PEREZ, Doris Sablan
 PEREZ, Eddie John
 PEREZ, Eleanor Loise Aguigui
 PEREZ, Enrique Pangelinan
 PEREZ, Felix Quintanilla
 PEREZ, Francisco Quintanilla
 PEREZ, Fred Mendiola
 PEREZ, Galo Mendiola
 PEREZ, Gregorio Quintanilla
 PEREZ, Guadalupe Reyes
 PEREZ, Jesus Concepcion

SANCHEZ, Lorraine Camacho
SANCHEZ, Manuel Camacho
SANCHEZ, Rosalia Camacho
SANTOS, Alejandro Limtiaco
SANTOS, Alejandro Limtiaco
SANTOS, Amparo R.
SANTOS, Ana A.
SANTOS, Ana Santos Duenas
SANTOS, Ana Taijeron Munoz
SANTOS, Anita Borja
SANTOS, Antonia Duenas
SANTOS, Antonia Santiago Babauta
SANTOS, Antonio Sablan
SANTOS, Arthur Borja
SANTOS, Benito Santos
SANTOS, Benny Borja
SANTOS, Concepcion Manibusan
SANTOS, Dolores Taitano
SANTOS, Dorothy B.
SANTOS, Eloy E.
SANTOS, Eloy L.
SANTOS, Enrique Sablan
SANTOS, Enriqueta Quintanilla
SANTOS, Francisca
SANTOS, Francisco Sablan
SANTOS, Gil Mendiola
SANTOS, Guadalupe Limtiaco
SANTOS, Henry San Nicolas
SANTOS, Ignacio Manibusan
SANTOS, Isabel Reyes Garrido
SANTOS, Jessie William Munoz Leon Guerrero
SANTOS, Jesus Benavente
SANTOS, Jesus Sablan
SANTOS, Jose Limtiaco
SANTOS, Jose Sablan
SANTOS, Jose Santos
SANTOS, Josefa Limtiaco
SANTOS, Joseph Alfred Munoz Leon Guerrero
SANTOS, Josepha Limtiaco Santos
SANTOS, Juan Rice
SANTOS, Juanita Munoz
SANTOS, Julia
SANTOS, Lourdes Marcela Sablan
SANTOS, Luis Taitano
SANTOS, Maria Aquig Duenas
SANTOS, Maria Arriola Arriola

SANTOS, Maria Diaz
SANTOS, Maria Munoz Leon Guerrero
SANTOS, Maria Sablan
SANTOS, Maria San Nicolas
SANTOS, Martha
SANTOS, Ramon Duenas
SANTOS, Rena
SANTOS, Soledad Arriola
SANTOS, Teresita Cruz Dydasco
SANTOS, Walter Rice
SARMIENTO, Concepcion Quan
SARMIENTO, Daniel B.
SARMIENTO, Herman Babauta
SARMIENTO, Jose B.
SARMIENTO, Juan Babauta
SARMIENTO, Juan Perez
SARMIENTO, Maria Babauta
SARMIENTO, Rita Borja
SARMIENTO, Soledad Babauta
SCOTT, Maria Anderson
SEAGRAVES, Dorothy Camacho
SMITH, Katherine Cruz
SPETH, Annie Nicolas Williams
SURBER, Juanita Wesley
TAITANO, Ana Duenas
TAITANO, Victoria Sablan
TAJALLE, Ignacia Santos Torres
TANEGA, Estella Mendiola Gumataotao
THEIR, Alfonsina Cruz Dydasco
TOLENTINO, Angelina Degracia
TOLENTINO, Emeliana Degracia
TOLENTINO, Felicita Degracia
TOLENTINO, Florencia Degracia
TOLENTINO, Joaquin Taitano
TOLENTINO, Judith Degracia
TOLENTINO, Maria Degracia
TOLENTINO, Maria Diaz
TOLENTINO, Maria Perez Diaz
TOLENTINO, Matilde Degracia
TOLENTINO, Pablo Degracia
TOLENTINO, Rosalia Degracia
TOLENTINO, Servia Degracia
TOLENTINO, Thomasa Borja Degracia
TOPASNA, Antonia Concepcion Guzman
TOPASNA, Josefina Babauta Perez
TOPASNA, Julian Fegurgur

TOPASNA, Teresita Santos Agustin
TORRES, Agustin Santos
TORRES, Blandina Cruz Borja
TORRES, Felix
TORRES, Jesus Pangilinan
TORRES, Jose Santos
TORRES, Rosa Mendiola Santos
TOVES, Amalia Sablan Santos
TOVES, Ana Cruz
TOVES, Carmen Espinosa Sablan
TOVES, Francisco Santos
TOVES, Ignacio Santos
TOVES, Joaquin
TOVES, Joaquin Santos
TOVES, Jose Wesley
TOVES, Manuela Anderson
TRIBLANO, Florence Aquiningoc
ULLOA, Juan Santos
ULLOA, Victoriano Santos
USITA, Anna D.
VIERNES, Guadalupe Sablan Santos
WESLEY, Benito A.
WESLEY, Dolores Crisostomo
WESLEY, Guadalupe Reyes Cruz
WILLIAMS, Dorothy Pangelinan Perez
WILLIAMS, Emeliana Samonte Nicolas
WILLIAMS, Francisco Nicolas
WILLIAMS, John Bryan
WILLIAMS, John Bryan (1st)
WILLIAMS, John Nicolas
WILLIAMS, Lorenzo Nicolas
WRIGHT, Rosita Duenas Santos

While every effort has been made to collect as many names as possible and to present them here as accurately as possible, we apologize for any omissions or errors made beyond our control.

Ray Lujan

Buenas yan Håfa Adai Speaker Cruz, Vice Speaker Terlaje and Senators of I Mina'trentai Kuåtto Na Liheslaturan Guåhan. Si Yu'os Ma'åse' Todus Hamyo.

I come before you all today on behalf of the Social Work Student Alliance out of I Unibetsidåt Guåhan, in support of *Resolution 51-34 (LS)*, to support an appeal in the recent ruling of Davis v. Guam.

As future social workers, we will soon be working with some of the most marginalized peoples in all levels of our society and in varying capacities. One of the bedrocks and foundations to our understanding of such issues were introduced to us upon entry of the social work program in a class called Social Justice. There, we learned of the importance of the UN Universal Declaration of Human Rights and other international instruments which aims to promote and protect human rights and social welfare. We learned of the history and context to which they were created and we learned how influential such instruments are in guiding the practice and ethics of the field of social work.

The UN Permanent Forum on Indigenous Issues defines indigenous peoples in context to political participation by stating that “indigenous peoples often have much in common with other neglected segments of societies...lack of political representation and participation, economic marginalization and poverty, lack of access to social services and discrimination. Despite their cultural differences, the diverse indigenous peoples share common problems also related to the protection of their rights. They strive for recognition of their identities, their ways of life and their right to traditional lands, territories and natural resources” (UN Indigenous Peoples, Indigenous Voices).

It is a sad time that we live in to see the selective application of the U.S. Constitution come to the limelight in such an important month for our people, *Mes CHamoru*, which once more reminds us that we are but second class citizens. It was one thing to learn how this instrument has violated the UN Declaration on the Rights of Indigenous Peoples in the onset of U.S. colonization by taking land, displacing peoples and families, creating dependency, using our island merely for geo-political military strategy, and banning the use of our native language; but it is another thing to witness it firsthand. The one thing that we have left to right the wrongs of the past and bring justice to our people was once more taken away for the benefit of non-natives. To add further insult, we were also called racist and discriminatory in accordance to the 15th amendment of the U.S. Constitution which is a product of American racism and is alive and well to this day.

While I am devastated, I come before you with the faith and hope that you, our elected leaders, will hear our voices, do what is right and just, and fight for our people. The true measurement of our colonization will be determined if we accept this ruling.

Si Yu'os Ma'åse'!

Social Work Student Alliance
Division of Social Work, House #31 Dean's Circle
UOG Station, University of Guam 96923

Support for Resolution 51-34 (LS)
“RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE
FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF
GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE
INHABITANTS OF GUAM,” by **Therese M. Terlaje**

03/17/2017

Buenas yan hafa adai Vice-Speaker Therese Terlaje and honorable Senators of the 34th Guam Legislature:

This testimony is presented on behalf of the Social Work Student Alliance (SWSA) of the University of Guam. SWSA thanks-you for this opportunity to present testimony in support of Resolution 51-34 (LS). My name is Lakretia Castro-Santos and I am a senior in the social work program. Resolution 51-34 (LS) is of great significance as it supports the Government of Guam in gaining further assistance to defend the rights of the native inhabitants of Guam.

It is rooted in the social work core values that we challenge social injustices by pursuing social change on behalf of those who are oppressed and for those who may not have a voice. As stated in the social work Code of Ethics, social workers strive to ensure access to equality of opportunity and meaningful participation in decision making for all people.

Resolution 51-34 (LS) will avail the people of Guam an opportunity to speak up on their right to self-determination. As a social work student, resident of Guam and descendant of a native inhabitant, I stand by the people of Guam in efforts to exercise our right to determine our future. Without this appeal, we will continue to be oppressed in our

own land. At the very least, the native inhabitants deserve to be heard. It is because the resolution greatly benefits our community ensuring a chance at self-determination that the Social Work Student Alliance stands in support of this resolution. *Si Yu'os ma'ase!*

E-Mail Contact Information:

A handwritten signature in black ink, appearing to read 'Lakretia Castro-Santos', with a long horizontal stroke extending to the right.

Lakretia Castro-Santos

l.castro94@live.com

Resolution 51-34 (LS)

“RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST THE DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM” sponsored by **Therese M. Terlaje**

03/17/2017

Buenas yan hafa adai Vice Speaker Terlaje and senators para i Mina'trentai kuratro na lehislatura. I thank you all for this opportunity to present my testimony in support of Resolution 51-34 (LS) to support an appeal in Davis v. GEC.

Si Rosario Perez yu'. I am Rosario Perez. I am a student of the University of Guam double majoring in Social Work and Chamorro studies. Since high school I have studied the different colonial periods of Guam, particularly the colonial period we live in today. I have learned about the positive and negative effects on the people. I have done most of my papers and projects about colonialism on Guam, but I still feel that my knowledge of the subject is never satiated nor completed.

My research has shown me that Guam became an unincorporated territory of the United States established by the 1950 Organic Act of Guam. Public Law 25-106 specified the need for Guam's people to “exercise the inalienable right to self-determination of their political relationship with the United States of America,” and describes the right “founded by the 1898 Treaty of Peace between the United States and Spain (PL25-106).” The law also specifies that those who are eligible to vote are the native inhabitants of Guam, which is defined as those who were made U.S. citizens via the Organic Act in 1950, including their descendents.

I understand the reasoning behind the ruling of the Davis case, defined through the U.S. Constitution, but as a Chamorro and Native Inhabitant it is upsetting to hear that my right to self-determination is “racist” or “unconstitutional.” This is an inalienable right that should be granted to all colonized people of the world.

The plebiscite to determine Guam's future is not meant to be exclusive, but rather it is meant to empower the native inhabitants and the indigenous people in their right to

self-determination. The indigenous people of Guam are the Chamorro people. The Native inhabitants are those who were made U.S. citizens via the Organic Act. This includes the Chamorro people and any other person who was here on Guam in 1950.

Just as the United States and other independent nations of the world exercised their rights, it is now time for Guam to decide. But it would be continued oppression to have those who are not native inhabitants or indigenous Chamorros decide our future.

It is because this resolution benefits our community and helps ensure our right to self-determination that I am here today speaking to all of you in support of this bill.

Ginen i mäs takhalom gi anti-hu. put fabot, mungga malefa i taotao Guåhan.

From the deepest of my soul, please don't forget the people of Guam.

Si Yu'os ma'ase.

Thank You.

Contact Information:

Name

E-mail Address

Read by Shannon McManus
March 17, 2017 - Public Hearing

Microchild

In the emerging island nations
Where multi-national footprints
Have crisscrossed the souls
Of the indigenes and the children
In addition to their cultural heritages.
Drowning in a sea of exploitation;
The fruits of the future
Become transplanted in its native soils
As if through the artificial insemination.
The native cultures have been marred
With importations and assimilation
Of foreign enigmas.
Within this dissonant milieu
Microchildren are nurtured
With greater hope for tomorrow.
Alas! the abundance of the land and sea
Becomes second to imported luxury
And inferiority complex walk in
And effeminates the future heroes
And further mutilates the sacred ground
Of cultural and traditional destiny
Where our forefathers consecrated
And affixed and confirmed as a guiding star
To the Micronations.
But the tide of time has been altered
And the children of the island nations
With matured guidance of their elders
And the world around them
Will be able to reach maturity
And will be soundly proud of being islanders
And members of mankind
With even greater hope
Of achieving peace and harmony
For the sake of brotherhood
Of man and his environment.
Old folks only see visions
Of the world that would've been
Youth dream dreams of things to come.
Because a child is a father of a man.

Submitted by: Carlos Camacho
for Resolution No 51-34 (LS)
3/17/17



HOME LOAN GUARANTY

NATIVE AMERICAN DIRECT HOME LOAN

OVERVIEW

Since 1992, the Native American Veteran Direct Loan (NADL) program has provided eligible Native American Veterans and their spouses the opportunity to use their Department of Veterans Affairs (VA) home loan guaranty benefit on Federal trust land.

HOW DOES THE NADL PROGRAM WORK?

By statute, before VA may make a loan to any Native American Veteran, the Veteran's tribal or other sovereign governing body must enter into a **Memorandum of Understanding (MOU) with VA**. Native American Veterans who are eligible for VA home loan benefits and whose sovereign governments have signed an MOU, may then apply directly to VA for a 30 year fixed rate loan to purchase, build, or improve a home located on Federal trust land. They may also refinance a direct loan already made under this program to lower their interest rate. If the property is not located on Federal trust land, the Veteran can use the traditional VA-guaranteed Home Loan program.

WHAT ARE THE LOAN LIMITS AND INTEREST RATES?

Please see the current [list of loan limits](#) and the interest rates for NADLs.

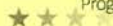
HOW CAN I CONTACT VA TO LEARN MORE ABOUT GETTING A NADL?

VA has nine regional offices that can assist with loan guaranty questions. Please contact the RLC in your area of jurisdiction. You can locate your [RLC of jurisdiction](#).

Home Loans – February 2015



Disabilities determined by VA to be related to your military service can lead to monthly non-taxable compensation, enrollment in the VA health care system, a 10-point hiring preference for federal employment and other important benefits. Ask your VA representative or Veterans Service Organization representative about Disability Compensation, Pension, Health Care, Caregiver Program, Career Services, Educational Assistance, Home Loan Guaranty, Insurance and/or Dependents and Survivors' Benefits.



U.S. Department
of Veterans Affairs



**MEMORANDUM OF UNDERSTANDING BETWEEN
THE TERRITORY OF GUAM
AND
THE SECRETARY OF VETERANS AFFAIRS, AN OFFICER OF THE UNITED STATES
RELATING TO THE PROCESSING, UNDERWRITING, AND SERVICING OF VA DIRECT HOME LOANS
FOR ELIGIBLE PACIFIC ISLANDER GUAM CHAMORRO VETERANS**

I. PURPOSE

This Memorandum (MOU) defines the basic responsibilities of the Secretary of Veterans Affairs and the Territory of Guam. VA has proceeded to implement a Native American Veteran Direct Loan Pilot Program (Program) to qualified Guam Pacific Islander veterans under Public Law 101-547 of October 28, 1992, Title 38 U.S. Code, §§ 3761-3764. The Guam Housing Corporation (GHC) has agreed to assist VA in implementing this Pilot Program, as have the Chamorro Land Trust Commission (CLTC) and the Guam Territorial Office of Veterans Affairs. The GHC and the CLTC will determine what GHC and CLTC properties in Guam qualify as Chamorro Land Trust Act properties.

II. EFFECTIVE DATE OF AGREEMENT

This Agreement is effective upon the date last signed by the signatories after review and approval by VA.

III. CONSIDERATION

In consideration of the premises and other good and valuable consideration, the parties do agree and establish as follows a pilot program of direct home loans for qualified Pacific Islander veterans on eligible trust lands in Guam, as defined by 48 U.S. Code, §1421, the Organic Act of Guam, as amended, the Chamorro Land Trust Act, 21 GCA Chapter 75, §75101 et seq., and 1993 regulations therefor, as interpreted by the Government of Guam, (see Angel Santos and the Chamorro Nation vs. Joseph F. Ada, Guam Superior Court, Case No. S.F. 0083-92 (1993)), and by Title 38 U.S. Code, §3764 and Title 38, CFR, §§ 36.6501 and 36.6527.

IV. AGREEMENT

A. VA will make direct home loans available for qualified Pacific Islander veterans on eligible trust lands to the extent funds are appropriated and subject to such terms and conditions as may be established by VA. VA will process loan applications from the GHC upon verification of qualified Pacific Islander status on eligible trust lands in accordance with GHC and VA underwriting criteria. VA will fund loans to qualified Guam native veterans for the purchase, construction, improvement of a home or for the purpose of lowering the interest rate on existing direct loans compiled by GHC. If VA utilizes GHC or other Territory of Guam Offices to perform loan closing, construction inspections, compliance inspections, loan processing and property management, the veteran may pay a fee of up to \$300 to GHC or other entity performing this work. VA will order appraisals and compliance inspections through VA appraisers on Guam. Appraisal services will be paid by veterans or beneficiaries using only VA certified or named appraisers on Guam. Fees and costs will be flexibly determined in the sole discretion of VA in accordance with customary practice, excluding commercial properties, may be utilized for direct home loans, in the discretion of VA, if certified as upon Chamorro lands for Chamorro veterans may not by mortgage alone establish citizenship for the Pilot Program. At least one party to a VA direct loan must be a qualified veteran Chamorro; direct non-veterans and non-Chamorro may sign as co-owners and mortgagees if permitted to do so by GHC.

B. The Territory of Guam hereby certifies that it has established standards, forms, reports and procedures that result in the conveyance of a valid and meaningful leasehold or fee interest in real property by a Pacific Islander veteran or beneficiary borrower(s) to VA as security for the VA direct home loan, including valid procedures for the power of sale, foreclosure without redemption or one action/deficiency limitations upon said federal VA interests, and also including obtaining valid unexpired detainer or other procedures to secure the possession of said interests for resale of the lot or dwelling or both, as provided by federal law, and interests have been purchased, constructed, and/or improved or affected by rate reduction loans using the proceeds of the VA direct home loan, lawfully and timely assigning such lease or deed interests by warranty to the Secretary of Veterans Affairs, his or her assigns, successors or designees. The Government of Guam (to also include CLTC) will be responsible for power of sale foreclosures, lease cancellation, and resale or lease of delinquent loans, so long as VA is given a timely and accurate accounting of the proceeds of the direct loan monies affected.

C. The Territory of Guam also certifies that it has established that a leasehold or fee mortgage, duly recorded as required by Guam law in the Guam Department of Land Management, Office of the Recorder, without cost or fee to VA, shall have priority over any and all lien (a), assessments, judgments, community property interests, UCC security interests, equitable mortgages, hook-up fees, partitions, party wall encumbrances, assessments, local taxes, short term lease interests, vendors' liens, or possessory or other adverse interests not perfected at the time of such recording and any and all subsequent liens or claims as provided by law.

D. The Territory of Guam, upon VA's written or other notice of default for more than ninety (90) days by the borrower(s) under a leasehold or fee simple mortgage, shall assist and counsel borrower(s) and lawfully exercise the loan and foreclose by power of sale or lease cancellation, refund, reschedule, or cure or terminate the loan as permitted by Federal law, upon first giving notice to VA in writing of intent to foreclose or cancel, including an accounting and certification to VA that all relevant requirements and conditions prescribed by Guam law and in Title 38 U.S. Code, Chapter 37, as amended, and that all provisions of the loan or deed have been complied with, without fee or cost, to the Secretary of Veterans Affairs, his or her designee or designees.

E. The Territory of Guam certifies to VA that a qualified Pacific Islander veteran on eligible trust land to whom VA will make a direct home loan holds, possesses or will obtain a valid leasehold or other acceptable realty interest in a lot that is located upon eligible and qualified trust land and will purchase, construct, or improve a dwelling on said lot, or reduce the existing interest rate loans, with the proceeds of the VA direct home loan.

F. The Territory of Guam will utilize mortgage liens and other forms acceptable to VA for direct home loans. Each and every eligible qualified veteran will convey the above described interest to the Secretary of Veterans Affairs by an appropriate federal mortgage or community lien and preliminary note for a later mortgage instrument, as security for the loan, in accordance with 38 U.S. Code §§ 3761-3764. VA will collect applicable VA funding fees by including them in loan amount, or collected separately.

G. The Territory of Guam will certify to VA names of qualified veterans on GHC waiting lists with priority for eligible trust lands from CLTC lists or combined GHC/CLTC lists.

H. The Territory of Guam and each veteran who obtains a loan from VA under this agreement will permit VA, its agents, contractors, inspectors, or employees, and GHC and Government of Guam agents, contractors, inspectors, or employees to enter upon the land of the veteran for the purpose of carrying out such actions as the Secretary and/or the Territory of Guam determines is necessary to monitor, inspect or evaluate compliance with the loan or any aspects of purchase, construction, improvements or other actions, including power of sale foreclosures (see 18 Guam Code Annotated (GCA) §96113), or delinquency in lieu of foreclosures, re-scheduling, refund, cure, compromise, or resolution. Events of bankruptcy, garnishment, lien action, casualty loss, storm damage, or unlawful detainer action affecting the proceeds of the loan will also allow for entry by the Territory and/or VA.

I. The Territory of Guam will to the maximum extent possible assist VA in its efforts to manage this Program in a prudent and cost effective manner, including but not limited to assisting VA in finding qualified substitute purchasers if the initial borrower(s) is unable or unwilling to fulfill his or her obligations under loan, and in ensuring that mortgages and other legal instruments are properly and timely recorded for VA without consequence or other fees or costs or taxes, and in ensuring that this Program is operated in a responsible and prudent manner. If VA determines that its servicing efforts are unsuccessful and default continues or re-occurs, then VA may notify the Territory of Guam to begin power of sale foreclosures and/or eviction-protection/unlawful detainer or other procedures to remedy default under mortgage and adverse possession. VA's ability of attorney's fees in such cases are limited by law (see 38 CFR §36.4313). The Territory of Guam will have a reasonable time set by VA to complete same; if however, the Territory of Guam is unable to complete said procedures in a reasonable time and prudent manner, VA may in its sole discretion temporarily or permanently suspend this Program by written notice to the Territory of Guam after the Chamorro or veterans, if permitted by Guam law, and GHC/CLTC.

J. VA agrees that hazard insurance meeting Guam law and VA requirements must be provided by the borrower(s) on or before closing, if available. Earthquake, wind, or other casualty insurance coverage is encouraged by VA if not cost prohibitive. Flood insurance must be obtained, if available.

K. VA agrees to close this loan and timely provide the Territory of Guam with copies of appropriate loan documents. Direct home loans may be made by VA in the high cost area of Guam for up to \$120,000 for each loan, in accordance with 38 U.S.C. §3762.

L. The Territory of Guam agrees that if a loan will be canceled because of an unsecured default, the GHC will give VA timely advance written notice of such pending and/or completed cancellation, together with a full accounting of direct loan monies affected.

M. The Territory of Guam will apply any collections made, first to loan interest of the VA loan, next to interest as allowed by Guam law, and last to any principal due. VA agrees that the Territory of Guam foreclosure that may be obligated to pay VA for any deficiency or indemnity debt in the amount collected on foreclosure sale or resale. VA has written and comprehensive procedures for such debts of borrower(s) after

N. The GHC agrees to timely notify VA of any loan transfers made by death, disability, divorce, trust agreement, agreement of sale, bankruptcy, forfeiture for illegal activity, or conveyance purposes. All transfers will be in accordance with VA assumption limitations, requiring conspicuous notice of such limitations on the face of mortgage and note forms. (See 38 CFR §36.4502).

O. VA and the Territory of Guam agree that this agreement will be liberally construed and implemented to expeditiously protect the interests of the parties as well as to assist qualified and eligible Pacific Islander Guam veterans on eligible trust land to obtain decent, safe, sanitary, and habitable dwellings. Nothing in this paragraph however, will be deemed to constitute a warranty by VA to any party as to the condition of any property.

P. VA agrees to carry out an outreach program to inform and educate Guam veterans of this program and to offer VA training for GHC technicians to the extent funding is available to VA.

Q. VA reserves the right to suspend or terminate this pilot program in its sole discretion to protect the interests of the U.S. Government.

R. This VA program involves loans and not grants.

S. This agreement may be amended by written memorandums signed by the parties.

IN WITNESS WHEREOF, the parties hereto have signed this agreement as follows:

JESSE BROWN, SECRETARY OF VETERANS AFFAIRS

By: [Signature] Date: 5/6/97

His Excellency Carl T. C. Gutierrez, Governor of the Territory of Guam

By: [Signature] Date: 5-6-97

Guam Housing Corporation
By: [Signature] Date: 5/6/97

As authorized by its

Office of Territory of Guam Department of Veterans Affairs

By: [Signature] Date: 5/6/97

Territory of Guam Chamorro Land Trust Commission

By: [Signature] Date: 5/6/97

MOU between GHC and Veterans Affairs Sites the following U.S. Code.

Title 38 U.S. Code:

38 U.S. Code § 3761 - Direct housing loans to Native American veterans; program authority

(a)

The Secretary shall make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall make such loans in accordance with the provisions of this subchapter.

(b)

The Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety of geographic areas and in areas experiencing a variety of economic circumstances.

38 U.S. Code § 3762 - Direct housing loans to Native American veterans; program administration

(a) The Secretary may make a direct housing loan to a Native American veteran under this subchapter if—

(1)

(A)

the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; or

(B)

the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and

(2)

the memorandum is in effect when the loan is made.

(b)

(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

(i)

holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

(ii)

will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

(B)

That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

(i)

to evaluate the advisability of the loan; and

(ii)

to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

(i)

procedures for foreclosing the interest; and

(ii)

procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

(E)

That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that loans under this subchapter are made in a responsible and prudent manner.

(2)

The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

(c)

(1)

(A)

Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American veteran under this section may not exceed \$80,000.

(B)

(i)

Subject to clause (ii), the Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to make direct housing loans under this subchapter to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

(ii)

The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under **section 3703(a)(1)(C) of this title**.

(2)

Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under **section 3703(c)(1) or section 3712(f) of this title**, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

(3)

Notwithstanding **section 3704(a) of this title**, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

(d)

(1)

The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

(2)

The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of **section 3731 of this title**, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

(e)

Loans made under this section shall be repaid in monthly installments.

(f)

In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

(1)

take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

(2)

determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

(3)

make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

(4)

in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or

departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

(h)

(1)

The Secretary may make direct loans to Native American veterans in order to enable such veterans to refinance existing loans made under this section.

(2)

(A)

The Secretary may not make a loan under this subsection unless the loan meets the requirements set forth in subparagraphs (B), (C), and (E) of paragraph (1) of **section 3710(e) of this title**.

(B)

The Secretary may not make a loan under this subsection unless the loan will bear an interest rate at least one percentage point less than the interest rate borne by the loan being refinanced.

(C)

Paragraphs (2) and (3) of such section 3710(e) shall apply to any loan made under this subsection, except that for the purposes of this subsection the reference to subsection (a)(8) of **section 3710 of this title** in such paragraphs (2) and (3) shall be deemed to be a reference to this subsection.

(i)

(1)

The Secretary shall, in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council), carry out an outreach program to inform and educate Native American veterans of the availability of direct housing loans for Native American veterans who live on trust lands.

(2) Activities under the outreach program shall include the following:

(A)

Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under this subchapter and in assisting such organizations and veterans with respect to such housing benefits.

(B)

Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

(C)

Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

(D)

Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

(E)

Assisting tribal organizations and Native American veterans with respect to such benefits.

(F)

Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.

(j)

The Secretary shall include as part of the annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for the fiscal year covered by the report.

38 U.S. Code § 3763 - Native American Veteran Housing Loan Program Account

(a)

There is hereby established in the Treasury of the United States an account known as the "Native American Veteran Housing Loan Program Account" (hereinafter in this subchapter referred to as the "Account").

(b)

The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

38 U.S. Code § 3764 - Qualified non-Native American veterans

(a) TREATMENT OF NON-NATIVE AMERICAN VETERANS.— Subject to the succeeding provisions of this section, for purposes of this subchapter—

(1)

a qualified non-Native American veteran is deemed to be a Native American veteran; and

(2)

for purposes of applicability to a non-Native American veteran, any reference in this subchapter to the jurisdiction of a tribal organization over a Native American veteran is deemed to be a reference to jurisdiction of a tribal organization over the Native American spouse of the qualified non-Native American veteran.

(b) USE OF LOAN.—

In making direct loans under this subchapter to a qualified non-Native American veteran by reason of eligibility under subsection (a), the Secretary shall ensure that the tribal organization permits, and the qualified non-Native American veteran actually holds, possesses, or purchases, using the proceeds of the loan, jointly with the Native American spouse of the qualified non-Native American veteran, a meaningful interest in the lot, dwelling, or both, that is located on trust land.

(c) RESTRICTIONS IMPOSED BY TRIBAL ORGANIZATIONS.—

Nothing in subsection (b) shall be construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.

Public Law 102-547
102d Congress

An Act

To amend title 38, United States Code, with respect to housing loans for veterans.

Oct. 28, 1992
[H.R. 939]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans Home
Loan Program
Amendments of
1992.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Home Loan Program Amendments of 1992".

SEC. 2. ELIGIBILITY OF SELECTED RESERVE.

(a) **SELECTED RESERVE.**—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10."; and

(2) in section 3702(a)(2), by adding at the end the following:

"(E) For the 7-year period beginning on the date of enactment of this subparagraph, each veteran described in section 3701(b)(5) of this title."

(b) **FEES.**—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount;

or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or

for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

“(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

“(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost; and”.

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are amended by inserting “(other than loans described in section 3729(a)(2)(D) of this title)” after “for each loan”.

38 USC 3702
note.

(c) REPORT.—The Secretary of Veterans Affairs shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1994, and annually thereafter. The report shall contain—

(1) a declaration of the number of veterans (as defined by section 3701(b)(5) of title 38, United States Code) who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a);

(2) a comparison of the default rate of veterans described in paragraph (1) with the default rate for all other veterans who have received loans guaranteed or insured by the Secretary; and

(3) a comparison of the proportion of veterans who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a) who are first time homebuyers with the proportion of all other veterans who receive mortgage loans guaranteed or insured by the Secretary and who are first time homebuyers.

SEC. 3. ADJUSTABLE RATE MORTGAGE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—(1) Chapter 37 of title 38, United States Code, is amended by adding after section 3706 the following new section:

“§ 3707. Adjustable rate mortgages

“(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993, 1994, and 1995 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

“(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

“(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

“(2) be made by adjusting the monthly payment on an annual basis on the anniversary of the date on which the loan was closed;

“(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

"(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

"(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

"(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

"(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

"(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

"(4) such other factors as the Secretary finds appropriate.

"(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term."

(2) The table of sections for chapter 37, of title 38, United States Code, is amended by inserting after the item relating to section 3706 the following new item:

"3707. Adjustable rate mortgages."

(b) **REPORT.**—The Secretary shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1993, containing a description of the project carried out under section 3707 of title 38, United States Code (as added by subsection (a)), and shall continue to make annual reports to the Committees with respect to the default rate and other information concerning the loans guaranteed under such section. Such reports shall—

38 USC 3707
note.

(1) compare the number of adjustable rate mortgages guaranteed under such section with the number of fixed rate loans guaranteed or insured under chapter 37 of such title and contrast this ratio with a corresponding ratio for loans for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act;

(2) compare the initial interest rate of the adjustable rate mortgages guaranteed under such section with the fixed interest rate on loans guaranteed or insured under chapter 37 of such title;

(3) describe the monthly mortgage payment savings to the veteran, if any, under an adjustable rate mortgage guaranteed under such section compared with the payments that would have been required if the loan bore interest at a maximum fixed rate established by the Secretary;

(4) discuss whether the market share for housing loans guaranteed under chapter 37 of such title has increased or decreased since the implementation of such section;

(5) compare the default rate on mortgages guaranteed under such section with the default rate of fixed-rate mortgages guaranteed or insured under chapter 37 of such title; and

(6) compare the number of first time homebuyers using adjustable rate mortgage loans under such section with the

number of first time homebuyers using any other loan guaranteed under chapter 37 of such title.

SEC. 4. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 5. FEES FOR REFINANCING LOANS.

Section 3729(a)(2) of title 38, United States Code (as amended by section 2(b) of this Act), is amended—

(1) in subparagraph (A), by inserting "(other than section 3712(a)(1)(F))" after "section 3712"; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a loan guaranteed under section 3710(a)(8), 3710(a)(9)(B)(i), or 3712(a)(1)(F) of this title, the amount of such fee shall be 0.5 percent of the total loan amount."

SEC. 6. GUARANTY AMOUNT RELATIVE TO LOAN REFINANCINGS.

Chapter 37 of title 38, United States Code, is amended—

(1) in section 3710(e), by amending paragraph (1)(D) to read as follows:

"(D) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (i) the original guaranty amount of the loan being refinanced, or (ii) 25 percent of the loan;" and

(2) in section 3712(a)(4), by amending subparagraph (A)(iv) to read as follows:

"(iv) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (I) the original guaranty amount of the loan being refinanced, or (II) 25 percent of the loan;"

SEC. 7. EXTENSION OF LENDER APPRAISAL PROGRAM.

Section 3731(f)(3) of title 38, United States Code, is amended by striking out "1992" and inserting in lieu thereof "1995".

SEC. 8. NATIVE AMERICAN VETERANS DIRECT HOUSING LOAN PILOT PROGRAM.

(a) PROGRAM.—Chapter 37 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"§ 3761. Pilot program

"(a) The Secretary shall establish and implement a pilot program under which the Secretary may make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall establish and implement the pilot program in accordance with the provisions of this subchapter.

"(b) In carrying out the pilot program under this subchapter, the Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety

of geographic areas and in areas experiencing a variety of economic circumstances.

“(c) No loans may be made under this subchapter after September 30, 1997.

“§ 3762. Direct housing loans to Native American veterans

“(a) The Secretary may make a direct housing loan to a Native American veteran if—

“(1) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; and

“(2) the memorandum is in effect when the loan is made.

“(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

“(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

“(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

“(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

“(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

“(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

“(i) to evaluate the advisability of the loan; and

“(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

“(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

“(i) procedures for foreclosing the interest; and

“(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

“(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that the pilot program established under this subchapter is implemented in a responsible and prudent manner.

“(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

“(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American under this section may not exceed \$80,000.

“(B) The Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

“(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

“(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

“(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

“(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

“(e) Loans made under this section shall be repaid in monthly installments.

“(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

“(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

“(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

“(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

“(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary’s functions under this section; and

“(4) in a manner consistent with the provisions of this chapter and with the Secretary’s functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

“(h) The Secretary shall carry out an outreach program to inform and educate tribal organizations and Native American veterans of the pilot program provided for under this subchapter and the availability of direct housing loans for Native American veterans who live on trust lands.

“§ 3763. Housing loan program account

“(a) There is hereby established in the Treasury of the United States an account known as the ‘Native American Veteran Housing Loan Program Account’ (hereafter in this subchapter referred to as the ‘Account’).

“(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

“§ 3764. Definitions

“For the purposes of this subchapter—

“(1) The term ‘trust land’ means any land that—

“(A) is held in trust by the United States for Native Americans;

“(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

“(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

“(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

“(2) The term ‘Native American veteran’ means any veteran who is a Native American.

“(3) The term ‘Native American’ means—

“(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

“(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public Law 67-34; 42 Stat. 108);

“(C) an Alaska Native, within the meaning provided for the term ‘Native’ in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

“(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

“(4) The term ‘tribal organization’ shall have the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)) and shall include the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe.”

38 USC 3761
note.

(b) CONSULTATION.—In carrying out the direct housing loan pilot program authorized under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), the Secretary of Veterans Affairs shall consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans established under section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388).

(c) CONFORMING AMENDMENT.—The table of sections of such chapter is amended by adding at the end the following new matter:

“SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

“3761. Pilot program.

“3762. Direct housing loans to Native American veterans.

“3763. Housing loan program account.

“3764. Definitions.”

38 USC 3761
note.

(d) ANNUAL REPORTS.—Not later than February 1 of each of 1994 through 1998, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to—

(1) the implementation of the Native American veterans direct housing loan pilot program established under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), during the period ending on September 30 of the year preceding the date of the report;

(2) the Secretary's exercise of the authority provided under section 3762(c)(1)(B) of such title (as so added) to make loans exceeding the maximum loan amount;

(3) the appraisals performed for the Secretary during that period under the authority of section 3732(d)(2) of such title (as so added), including a description of—

(A) the manner in which such appraisals were performed;

(B) the qualifications of the appraisers who performed such appraisals; and

(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States; and

(4) the Secretary's recommendations, if any, for legislation regarding the pilot program.

38 USC 3761
note.

(e) AUTHORIZATION OF APPROPRIATIONS.—New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974, for such loans are made in advance. There is authorized to be appropriated for such purpose \$5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation.

(f) CONFORMING FUNDING AMENDMENT.—Title I of the Departments of Veterans Affairs and Housing and Urban Development,

and Independent Agencies Appropriations Act, 1993 is amended by striking out "direct loans authorized by" and all that follows through "Veterans' Affairs)" under the heading "NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT" and inserting in lieu thereof "direct loans authorized by subchapter V of chapter 37 of title 38, United States Code".

SEC. 9. ENERGY EFFICIENT MORTGAGES.

(a) IN GENERAL.—Subsection (d) of section 3710 of title 38, United States Code, is amended to read as follows:

"(d)(1) The Secretary shall carry out a program to demonstrate the feasibility of guaranteeing loans for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling or for energy efficiency improvements to a dwelling owned and occupied by a veteran. A loan may be guaranteed under this subsection only if it meets the requirements of this chapter, except as those requirements are modified by this subsection.

"(2) The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not exceed the greater of—

"(A) the cost of the energy efficiency improvements, up to \$3,000; or

"(B) \$6,000, if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

"(3) Notwithstanding the provisions of section 3703(a)(1)(A) of this title, any loan guaranteed under this subsection shall be guaranteed in an amount equal to the sum of—

"(A) the guaranty that would be provided under those provisions for the dwelling without the energy efficiency improvements; and

"(B) an amount that bears the same relation to the cost of the energy efficiency improvements as the guaranty referred to in subparagraph (A) bears to the amount of the loan minus the cost of such improvements.

"(4) The amount of the veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of this title, shall not be affected by the amount of the guaranty referred to in paragraph (3)(B).

"(5) The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors of the availability of loan guarantees under this subsection and the procedures and requirements that apply to the obtaining of such guarantees.

"(6) For the purposes of this subsection:

"(A) The term 'energy efficiency improvement' includes a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, and the application of a residential energy conservation measure.

"(B) The term 'solar heating' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

"(C) The terms 'solar heating and cooling' and 'combined solar heating and cooling' have the meaning given such terms

in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

“(D) The term ‘passive system’ includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Secretary to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

“(E) The term ‘residential energy conservation measure’ means—

“(i) caulking and weatherstripping of all exterior doors and windows;

“(ii) furnace efficiency modifications limited to—

“(I) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

“(II) devices for modifying flue openings which will increase the efficiency of the heating system, and

“(III) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

“(iii) clock thermostats;

“(iv) ceiling, attic, wall, and floor insulation;

“(v) water heater insulation;

“(vi) storm windows and doors;

“(vii) heat pumps; and

“(viii) such other energy conservation measures as the Secretary may identify for the purposes of this subparagraph.

“(7) A loan may not be guaranteed under this subsection after December 31, 1995.”

(b) PURCHASE OR CONSTRUCTION WITH ENERGY EFFICIENCY IMPROVEMENTS.—(1) Section 3710(a)(7) of such title is amended to read as follows:

“(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran’s home through energy efficiency improvements, as provided in subsection (d).”

(2) Section 3710(a) of such title is further amended by adding after paragraph (9) the following:

“(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d).”

(c) REPORTS.—Not later than 1 year after the date on which the Secretary of Veterans Affairs first exercises the authority to guarantee loans under section 3710(d) of title 38, United States Code (as added by subsection (a) of this section), and for each of the 3 years thereafter, the Secretary shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the program under such section. Each such report shall contain information pertaining to—

(1) the number of mortgages guaranteed under such section;

(2) the average amount of money added to the mortgage to finance energy efficiency features;

(3) the types of energy efficiency features obtained with mortgages under such section; and

(4) the default rates on the mortgages guaranteed under such section compared with the default rates on all other types of mortgages guaranteed by the Secretary.

SEC. 10. NEGOTIATED INTEREST RATES.

(a) IN GENERAL.—Section 3703(c) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking “the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for” and inserting “applicable to”; and

(B) by striking all that follows “(12 U.S.C. 1709(b))” and inserting a period; and

(2) by adding at the end the following:

“(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

“(i) agreed upon by the veteran and the mortgagee; or

“(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

“(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

“(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

“(D) This paragraph shall expire on December 31, 1995.”

(b) REPORT.—Not later than December 31, 1993, and annually thereafter, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points under section 3703(c)(4) of title 38, United States Code (as added by subsection (a)). If the Secretary has implemented that authority, the Secretary shall include in the report—

(1) a comparison of the interest rates paid by veterans for loans that bear interest rates negotiated under section 3703(c)(4) of such title with interest rates allowable under mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and interest rates charged under conventional mortgage loan programs for single family housing;

(2) a comparison of the negotiated interest rates being charged under paragraph 4 of section 3703(c) of such title with the interest rate that the Secretary would have established under paragraph (1) of such section during the same time period;

Termination
date.
38 USC 3703
note.

(3) a comparison of the number of discount points charged by the lender for mortgage loans that bear interest rates negotiated under section 3703(c)(4) of such title with the number of discount points charged for mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and the number of discount points charged under conventional mortgage loan programs for single family housing;

(4) a discussion of the extent to which borrowers or sellers are paying the discount points on negotiated interest rate loans under section 3703(c)(4) of such title;

(5) a discussion of whether the market share for housing loans guaranteed under such title has increased or decreased since the implementation of the authority to guarantee and insure loans that bear negotiated interest rates under section 3703(c)(4) of such title, and a discussion of the extent to which any change in market share was the result of that authority;

(6) in claims paid following foreclosure, a discussion of the difference in the interest portion paid on loans guaranteed under section 3703(c)(4) of such title to what the interest portion would have been under the interest rate established under section 3703(c)(1) of such title; and

(7) the number of first time homebuyers using loans that bear negotiated interest rates under section 3703(c)(4) of such title.

SEC. 11. ELIGIBILITY FOR FLAGS AND GRAVE MARKERS.

(a) **FLAGS.**—Section 2301(a) of title 38, United States Code, is amended to read as follows:

“(a) The Secretary shall furnish a flag to drape the casket of each—

“(1) deceased veteran who—

“(A) was a veteran of any war, or of service after January 31, 1955;

“(B) had served at least one enlistment; or

“(C) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty; and

“(2) deceased individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.”

(b) **HEADSTONES OR MARKERS.**—Section 2306(a) of title 38, United States Code, is amended by adding at the end thereof the following:

"(5) Any individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age."

SEC. 12. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended 38 USC 5302.
by striking out "3102" and inserting in lieu thereof "5302".

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 939 (S. 3108):

HOUSE REPORTS: No. 102-292, Pt. 1 (Comm. on Veterans' Affairs) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORTS: No. 102-405 accompanying S. 3108 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Mar. 3, considered and passed House.

Oct. 1, considered and passed Senate, amended, in lieu of S. 3108.

Oct. 5, House concurred in Senate amendments with an amendment.

Oct. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.



Infrastructure Funding for Substantially Underserved Trust Areas

The Rural Utilities Service (RUS), an agency within USDA Rural Development, was given new tools through the 2008 Farm Bill (the Food, Conservation, and Energy Act of 2008) to finance improvements in electric, telecommunications, and water and sewer infrastructure in substantially underserved trust areas — land held in trust by the United States for Native Americans. This part of the 2008 Farm Bill is known as the “Substantially Underserved Trust Area (SUTA) provisions.” The provisions are designed to make RUS infrastructure financing more accessible to, and affordable for, Native Americans in trust areas because those areas, historically, have had difficulty receiving Federal assistance.

Benefits of the SUTA Provisions

Under the SUTA provisions, USDA has the flexibility to:

- Offer loan interest rates as low as 2 percent;;
- Waive certain documentation requirements regarding non-duplication of service;
- Waive the matching funds or credit support requirements for loans;
- Extend the time period in which loans are repaid; and
- Provide the highest priority for funding to eligible projects that will serve trust areas.

RUS published a final rule in the *Federal Register* in June 2012 that provides detailed information about how it is implementing the SUTA provisions. Additional SUTA resources, including the final rule and a questions and answers document, are available online at: www.rurdev.usda.gov/AI_ANHome.html.

What Does “Substantially Underserved” Mean?

A “substantially underserved” trust area is a community in a trust area that the Secretary of Agriculture determines has a high need for assistance. “Underserved” is defined as an area or community lacking an adequate level or quality of service. This can include areas where an existing provider has not, or will not, offer an adequate level or quality of service (normally, USDA cannot fund projects that are considered to duplicate existing services through another provider in the same area).

Which Programs Are Included?

The following USDA programs can offer benefits through SUTA to qualified applicants:

- Rural Electrification Direct and Guaranteed Loans;
- High Energy Cost Grants;
- Water and Waste Disposal Direct and Guaranteed Loans;
- Water and Waste Disposal Grants;
- Broadband Direct and Guaranteed Loans;
- Distance Learning and Telemedicine Grants; and
- Telecommunications Infrastructure Direct and Guaranteed Loans.

Can Non-Tribal Applicants Request SUTA Consideration?

Yes. Applicants who are eligible under RUS’s regular loan and grant program authorities may request consideration under the SUTA provisions. However, to ensure the feasibility of any project that will be carried out, non-Tribal applicants must provide RUS with documentation showing that Tribes in the service area agree to the proposed project.

How Do Applicants Request SUTA Consideration?

Applicants may determine if they qualify for consideration under the SUTA provisions by contacting their USDA Rural Development State Office at www.rurdev.usda.gov/StateOfficeAddresses.html. Each State has local electric, telecommunications, and water and sewer specialists who can provide assistance. Applicants may also contact program specialists at the National Office at www.rurdev.usda.gov/Utilities_LP.html for more information.

Applicants may also write to:

USDA Rural Development
Rural Utilities Service
Room 5135-S, Stop 1510
1400 Independence Ave. SW
Washington, DC 20250-1510
Phone: (800) 670-6553 (Toll Free)
Fax: (202) 720-1725

Written Materials Required to Apply

Applicants must submit a completed application to USDA that meets all the requirements under the loan or grant program through which they are requesting funding. Applicants must also notify USDA, in writing, that they are seeking SUTA consideration, and include the discretionary SUTA authorities (for example, a 2-percent interest loan) that they would like to have applied to their proposal.

Written requests may be memoranda or letters, and must include the following:

- A description of the applicant, documenting eligibility;
- A description of the community to be served, documenting eligibility;
- An explanation and documentation of the high need for the benefits of the program, which may include but is not limited to:
 - Data documenting a lack of service or inadequate service in the affected community;
 - Data documenting significant health risks to community residents due to a lack of access to, or service by, an adequate, affordable service; and
 - Data documenting economic need in the community (for the types of data suggested to document high need, see the “Application Requirements” section of the final rule).
- The impact of the specific SUTA authorities requested for the proposed project;
- Documentation substantiating that when the SUTA authorities are factored into the proposed financing, the project is financially feasible; and
- Any additional information RUS may consider relevant to the application which is necessary to adequately evaluate the application.

RUS may also request modifications or changes, including changes to the amount of funds requested, in any proposal outlined in applications for consideration.

Consideration of Applications

Applicants are welcome and encouraged to provide additional information that demonstrates high need for the benefits of the desired loan or grant program.

Once a complete application and SUTA request have been received, USDA staff will conduct a review to determine if the applicant is eligible to receive SUTA consideration. Applicants will be notified if SUTA consideration has been approved or denied. Next, USDA will evaluate requests for specific SUTA authorities to determine if the proposal is financially feasible at the special rates or terms. USDA will then determine which of the SUTA provisions will be granted. USDA may include all,

some, or none of the SUTA authorities originally requested by the applicant.

For More Information

For more information on SUTA, visit www.rurdev.usda.gov/suta.html. Native American Tribal groups or Tribal members may also contact Rural Development's Native American Coordinator by e-mail at AIAN@wdc.usda.gov or by phone at (720) 544-2911.

Program Aid 2137
May 2013

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file an employment complaint, you must contact your agency's EEO Counselor (click the hyperlink for list of EEO Counselors) within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at http://www.ascr.usda.gov/complaint_filing_file.html.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Rules and Regulations

Federal Register

Vol. 77, No. 114

Wednesday, June 13, 2012

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1700

RIN 0572-AC23

Substantially Underserved Trust Areas (SUTA)

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is issuing regulations related to loans and grants to finance the construction, acquisition, or improvement of infrastructure projects in Substantially Underserved Trust Areas (SUTA). The intent is to implement Section 306F of the Rural Electrification Act by providing the process by which eligible applicants may apply for funding by the agency.

DATES: *Effective:* July 13, 2012.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 1522, Room 5162-S, Washington, DC 20250-1522. Telephone number: (202) 690-1078, Facsimile: (202) 720-8435.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Rural Development has determined that this rule meets the applicable standards provided in section 3 of that Executive Order. In

addition, all State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to the rule and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (5 U.S.C. 6912(e)), administrative appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RUS has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). RUS provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The information collection and recordkeeping requirements contained in this rule are pending approval by OMB and will be assigned OMB control number 0572-0147 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Catalog of Federal Domestic Assistance

The programs described by this rule are listed in the Catalog of Federal Domestic Assistance Programs under number 10.759, Special Evaluation Assistance for Rural Communities and Households Program (SEARCH); 10.760, Water and Waste Disposal Systems for Rural Communities; 10.761, Technical Assistance and Training Grants; 10.762, Solid Waste Management Grants; 10.763, Emergency Community Water Assistance Grants; 10.770, Water and Waste Disposal Loans and Grants (Section 306C); 10.850; Rural Electrification Loans and Loan

Guarantees; 10.851, Rural Telephone Loans and Loan Guarantees, 10.855, Distance Learning and Telemedicine Loans and Grants; 10.857, State Bulk Fuel Revolving Fund Grants, 10.859, Assistance to High Energy Cost Rural Communities; 10.861, Public Television Station Digital Transition Grant Program; 10.862, Household Water Well System Grant Program 10.863, Community Connect Grant Program; 10.864, Grant Program to Establish a Fund for Financing Water and Wastewater Projects; 10.886, Rural Broadband Access Loans and Loan Guarantees.

The Catalog is available on the Internet at <http://www.cfda.gov>.

Executive Order 12372

Most programs covered by this rulemaking are excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034). However, the Water and Waste Disposal Loan Program, CFDA number 10.770, is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandate Reform Act of 1995.

National Environmental Policy Act Certification

Rural Development has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Therefore, this action does not require an environmental impact statement or assessment.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the

national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175

The policies contained in this rule do not impose substantial unreimbursed direct compliance costs on Indian tribal, Alaska native, or native Hawaiian governments and sovereign institutions or have tribal implications that preempt tribal law. Prior to development of this rulemaking, the agency held Tribal Consultations at seven (7) USDA regional consultations, conducted sixteen (16) SUTA specific consultations and hosted three (3) Internet and toll free teleconference based webinars in order to determine the impact of this rule on Tribal governments, communities, and individuals. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration, the annual SUTA Report to Congress and were used extensively throughout the drafting of this proposed rule.

Background

USDA Rural Development (Rural Development) is a mission area within the U.S. Department of Agriculture comprising the Rural Housing Service, Rural Business/Cooperative Service and Rural Utilities Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants and technical assistance through more than forty programs aimed at creating and improving housing, businesses and infrastructure throughout rural America.

Rural Utilities Service (RUS) loan, loan guarantee and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecom and broadband infrastructure, RUS also plays a big role in improving other measures of quality of life in rural America, including public health and safety, environmental protection, conservation, and cultural and historic preservation.

The 2008 Farm Bill (Pub. L. 110-246, codified at 7 U.S.C. 936f) authorized the Substantially Underserved Trust Area (SUTA) initiative. The SUTA initiative gives the Secretary of Agriculture certain discretionary authorities relating to financial assistance terms and

conditions that can enhance infrastructure financing options in areas that are underserved by electric, water and waste, and telecommunications and broadband utilities. Given the challenges, dynamics, and opportunities in implementing the SUTA initiative, RUS has aimed to foster a process that includes the voices of tribal leaders, tribal community members, Alaska Native Regional and Village Corporations, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, and other stakeholders.

Preliminary research by RUS identified various reports that provided several insights. In 2007, the United States Census Bureau Facts for Features article (dated 10/29/07) reported that the poverty rate of people who reported being sole race American Indian and Alaska Native (AI/AN) was 27 percent. Additionally, in 2006, the United States Government Accountability Office reported that based on the 2000 decennial census, the telephone subscribership rate for Native American households on tribal lands was substantially below the national level of about 98 percent. Specifically, about 69 percent of Native American households on tribal lands in the lower 48 states and about 87 percent in Alaska Native villages had telephone service. Additionally, in 2000, the United States Census Bureau reported that on Native American lands, 11.7 percent of residents lack complete plumbing facilities, compared to 1.2 percent of the general U.S. population.

There are special considerations and challenges in implementing an initiative to communities residing on trust lands. Many American Indians, Alaska Natives, Native Hawaiians, and Pacific Islanders have a deep spiritual, cultural, and historical relationship with the land. In certain circumstances, the objectives of economic and infrastructure development can be at odds with spiritual, cultural, historical, and environmental values. Additionally, there are special legal considerations inherent in financing projects in areas where the land itself cannot be used as security.

The SUTA initiative identifies the need to improve utility service and seeks to improve the availability of RUS programs to reach communities within trust areas when communities are determined by the Secretary of Agriculture (such authority has been delegated to the Administrator of RUS) to be substantially underserved. The RUS programs that are affected by this provision include: Rural Electrification Loans and Guaranteed Loans, and High Cost Energy Grants; Water and Waste

Disposal Loans, Guaranteed Loans and Grants; Telecommunications Infrastructure Loans and Guaranteed Loans; Distance Learning and Telemedicine Loans and Grants; and Broadband Loans and Guaranteed Loans.

In addition to its discretionary authority to implement the SUTA provisions, RUS is under a continuing obligation to make annual reports to Congress on (a) the progress of the SUTA initiative, and (b) recommendations for any regulatory or legislative changes that would be appropriate to improve services to communities located in substantially underserved trust areas. RUS has submitted three reports to Congress, dated June 18, 2009, June 21, 2010, and August 23, 2011.

The USDA Office of Native American Programs (since renamed the Office of Tribal Relations, hereinafter OTR) and RUS began exploring SUTA initiative implementation in 2008 after passage of the Farm Bill. RUS in conjunction with OTR interpreted implementation to include formal USDA Tribal Consultations and working with stakeholders that are federally recognized tribes. Pursuant to this determination and in accordance with President Obama's November 5, 2009, Memorandum on Tribal Consultation, RUS conducted sixteen (16) direct tribal consultations, seven (7) regional consultations, one listening session and three (3) Internet and toll free teleconference based webinars on implementation of the SUTA provision with Indian tribes from across the country. Additionally, the agency heard from six Federal agencies at three separate consultations on how best to implement the SUTA provision.

Federal agencies that were consulted include: The Department of the Interior, as the primary Federal agency with many direct responsibilities to Native American and Pacific Islander stakeholders; the Department of Veterans Affairs, for its clarification of the definition of "trust land"; the Environmental Protection Agency, because it has information regarding underserved trust areas with environmental challenges; the Department of Energy, because it has an interest in promoting energy development and conservation in trust areas; the Department of Commerce and the Federal Communications Commission, because each agency has an interest in telecommunications service in trust areas; the Department of Health and Human Services, because it has a long standing interest in providing health care services and promoting the

adoption of health IT in native communities; and the Office of Management and Budget.

As a result of categorizing and analyzing the comments received through tribal consultations and filed comments, RUS was able to identify certain issues that impact both the underserved communities that seek better access to RUS programs, and the federal agencies that have similar yet sometimes competing interests in trust areas. This regulation is informed by the insight gained through consultations and comments, and is designed to complement existing loan, grant, and combination loan and grant programs with the SUTA provisions that authorize the Administrator to apply certain discretionary authorities (2 percent interest and extended repayment terms; waivers of nonduplication restrictions, matching fund requirements, or credit support requirements; and highest funding priority) for the benefit of eligible communities, and the entities that serve them, in underserved Trust areas.

Discussion of Proposed Rule and Comments Received

In its Proposed Rule, published in the **Federal Register** October 14, 2011, (76 FR 63846), the agency requested comments regarding implementing the Substantially Underserved Trust Areas provision of the 2008 Farm Bill. The agency received nine comments from the following organization/individuals:

- Society of American Indian Government Employees
- Lalamilo Community Association
- NANA Regional Corporation
- Winnebago Tribe of Nebraska
- WAIMEA Hawaiian Homesteaders Assoc., Inc.
- State of Hawaii, Department of Hawaiian Home Lands
- Council for Native Hawaiian Advancement
- National Tribal Telecommunications Association
- Cheyenne River Sioux Tribe

These comments have been summarized and are addressed below:

Society of American Indian Government Employees

The Society expressed support and appreciation for the hard work performed by the RUS staff. The Society recommended that the agency (1) affirmatively proclaim that all land (including all "fee land") within tribal reservation boundaries to be qualified as trust lands for the SUTA provision, (2) designate the data requirements under § 1700.107 as burdensome and require that the burden of proof be on the

current service providers to demonstrate that they are actually providing service at reasonable prices, (3) refrain from requiring tribal communities to document significant health risks when a significant proportion of the community is unserved, and (4) ensure that RUS applicant reviewers have some tribal training on special legal status of tribes as sovereign nations before reviewing these types of applications. The Society also suggested that the SUTA Farm Bill provisions ensure that tribes are automatically eligible to receive waivers from the agency's non-duplication policies when a tribe applies to serve their own areas.

RUS Response

With regard to trust land status, the RUS does not have the authority to adjust the statutory definition of trust lands. RUS understands the unique "checker board" character of trust and non-trust lands in tribal communities. The agency, consistent with its current practice, may consider SUTA related applications that include non-Trust territories when the service to or through those areas are "necessary and incidental" to improving service to a covered Trust area. In other cases, the agency could allocate SUTA benefits to SUTA eligible territories.

With regard to data requirements under § 1700.107, the proposed rule provides that the "explanation and documentation of the high need for the benefits of the eligible program * * * may" include data from the list of proxies. As such the list is not exclusive and applicants are welcome to provide additional information which could demonstrate to the Administrator that the high need for the benefits of the eligible program exists. The agency understands the burden; however, the applicant is in the best position to at least make an initial case that current services are inadequate. The agency can then attempt to document the service delivery by incumbent providers and the agency will make an independent determination based on the information that is available.

With regard to areas unserved by water utilities, the agency certainly supports the general proposition that the absence of clean sources of drinking water poses serious health risks, but the specific details of the types of health risks a community faces due to water quality and availability in that specific location both helps the agency meet the finding of "substantially underserved" and target limited funding to areas where it is needed the most.

As for training on the special legal status of tribes as sovereign nations for

application reviewers, the agency has and will continue to train staff on the SUTA provision and a wide range of issues affecting tribal participation in RUS program including the sovereign nation status of tribes. RUS has provided service to numerous tribes as sovereign nations, and understands the legal status and collateral challenges to develop solutions that provide for program participation and the balance to protect taxpayer investments.

Regarding amendments to the Farm Bill, under SUTA the RUS may make legislative recommendations and will take our experience with the new authorities into account.

Waimea Hawaiian Homesteaders Association, Council for Native Hawaiian Advancement, Lalamilo Community Association and the Department of Hawaiian Homelands

The agency received comments from several entities in support of RUS' historic consultation efforts to implement the SUTA provisions to communities residing on trust lands managed by the Department of Hawaiian Home lands. The agency has a long history of providing access to capital for infrastructure projects to communities throughout the Hawaiian home lands. The current statute only applies the SUTA provisions to RUS programs. The Rural Development mission area will likely learn from the implementation of SUTA by the RUS and may outline important best practices in its annual report to Congress.

In comments submitted by the state of Hawaii's Department of Hawaiian Homelands (DHHL), recommendations were made requesting the agency to (1) interpret § 1700.104 to apply feasibility requirements on the specific project rather than the applicant and (2) interpret § 1700.107 to permit USDA to provide grant assistance of up to 75 percent for communities on Trust lands in Alaska and Hawaii that have a median family income of 80 percent.

RUS Response

Regarding the feasibility recommendation, the agency points to its response to the NTTA (below) which raised similar recommendations. The RUS is bound under Section 306F(c)(4) of the Rural Electrification Act (RE Act) which states that the Secretary "shall only make loans or loan guarantees that are found to be financially feasible" under the SUTA amendments to the RE Act and it does not expand other discretions. The SUTA discretionary authorities defined by these provisions of the RE Act are summarized earlier.

The RUS will continue its long standing practice of working collaboratively with native communities to find solutions that balance federal loan security requirements with the unique circumstances facing native communities. Therefore, DHHL's recommendations regarding loan security and financial feasibility will be addressed in the application review process.

With regard to DHHL's recommendation to authorize grant assistance of up to 75 percent for communities on Trust lands in Alaska and Hawaii with a median family income of 80 percent, the agency points to its response to NTTA regarding the level of grant funds dedicated for a particular provision in the statute. The amount of loan and grant funds that can be dedicated for any single purpose are generally defined by the authorizing statutes the agency administers and the annual appropriations laws which allocate budget authority (BA) to various programs. The SUTA provisions of the RE Act do not grant the agency any new authorities to convert BA among and between grant, direct loan or loan guarantee categories. Where it has such authority, the agency takes into account the needs of eligible communities.

We also note DHHL's support for § 1700.108 which covers application requirements that invite SUTA applicants to provide a variety of data sets that are already provided to other federal agencies who work closely with native communities. With the inclusion of subsection (H), RUS recognizes the need for native communities to articulate their unique circumstances to federal agencies for purposes of program eligibility.

NANA Regional Corporation

The NANA Regional Corporation (an ANCSA Regional Corporation in Alaska) filed comments expressing concern over the current eligibility requirements contained in the Proposed Rule on SUTA. NANA argues that the current requirements may preclude villages in its region and across Alaska for SUTA consideration since many Alaska Native villages are not located on large tracts of trust land.

RUS Response

The definition of trust areas in the Proposed Rule is taken directly from the current statute (7 U.S.C. 306F (B)(2)) added to the RE Act as part of the Food, Conservation and Energy Act of 2008 (the Farm Bill). This definition includes land that "is owned by a Regional Corporation or a Village Corporation, as such terms are defined in Section 3(g)

and 3(j) of the Alaska Native Claims Settlement Act * * *." The RUS does not have the authority to adjust the statutory definition of trust lands. RUS understands the many unique infrastructure challenges that rural communities (both Native and non-Native) face throughout Alaska. The agency, consistent with current practice, however, may consider SUTA related applications that include non-Trust territories when the service to or through those areas are "necessary and incidental" to improving service to a covered Trust area. In other cases, the agency could allocate SUTA benefits to SUTA eligible territories. RUS is also legislatively mandated to report to Congress annually on its implementation of the SUTA legislation. As part of that report, RUS may suggest "recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas." In this regard, the NANA suggestions on coverage of non-Trust territories are very helpful.

Winnebago Tribe of Nebraska

The Winnebago Tribe of Nebraska expressed support for the SUTA regulations championing waivers of matching requirements and giving the highest priority to SUTA projects to facilitate expedient construction, acquisition or improvements of infrastructure throughout tribal communities. The Tribe noted the ongoing need for access to robust broadband service to be deployed in order for economic capacity building to occur throughout the Winnebago community. Specifically, the Tribe highlighted the inadequate level of mobile wireless and broadband coverage in their region. The tribe's listed priorities in health, education, safety and economic capacity building and recommend that tribal governments merit the right to control the planning, adoption, utilization and sustainability of any and all services that advance their goals.

RUS Response

SUTA will give the RUS new tools to make financial resources more accessible to entities seeking to bring modern utility services to tribal areas. We share the concerns expressed by the Tribe that unserved native communities can no longer be ignored and that the availability of adequate broadband access remains an important national priority. USDA has made the deployment of advanced services on Tribal lands a central pillar to our rural

economic development mission which will be accelerated by this regulation.

National Tribal Telecommunications Association

The National Tribal Telecommunications Association commended USDA for its diligence implementing the SUTA provisions and offered specific comment on the following topics:

Disparity Analysis

The National Tribal Telecommunications Association (NTTA) suggested that the USDA adopt a metric of "disparity" to assess infrastructure "underservice" and recommended a comparison of access to infrastructure in a Trust Area and an area of community immediately contiguous to the Trust Area.

RUS Response

In § 1700.108(i) of the proposed rule, the agency seeks data from the applicant documenting a lack of service or inadequate service in the affected community (§ 1700.108(i)). The relative level of service between Trust and non-Trust territories as well as the relative cost between those areas are relevant factors and could be provided by applicants in a SUTA request. A disparity analysis may be very helpful in demonstrating a lack of service. If disparity information is provided in a RUS application, the agency will take such information into consideration when reviewing SUTA requests. RUS believes that codifying a disparity test may have the unintended consequence of signaling that SUTA authorities would be less available where a Trust Area exists and its surrounding non-Trust areas all suffer from a lack of service.

Overlapping or Incumbent Service Provider Areas

The NTTA recommends that the proposed definition of "underserved" in section 1700.101 be amended to add the phrase, "notwithstanding that a service provider is an RUS borrower."

RUS Response

A change in the definition of "underserved" is not necessary to address the concern of the commenter and is addressed elsewhere. Whether an area is determined to be "underserved" does not depend on the relationship of the incumbent service provider to the RUS. However, among the discretionary powers given to the agency under section 306F(c)(2) of the RE Act and under section 1700.106 of the proposed rule, is the power to waive "non-

duplication restrictions.” That core discretionary authority is not limited to areas served by RUS borrowers or non-borrowers.

Financial Feasibility Considerations

NTTA makes several comments and recommended changes regarding financial feasibility, loan security and risk assessments as well as weighing financial feasibility against a community’s lack of essential infrastructure. Specifically, NTTA recommends changing proposed section 1700.104 from “the financial feasibility of an application will be determined pursuant to normal underwriting practices for a particular eligible program” to “pursuant to normal underwriting practices, and such reasonable alternative practices as may support financial feasibility determination for a particular eligible program.” NTTA also proposes to add additional discretionary authorities related to collateral, security and risk assessment and Times Interest Earned Ratio (TIER) calculations.

RUS Response

The Section 306F(c)(4) of the Rural Electrification Act states that the Secretary “shall only make loans or loan guarantees that are found to be financially feasible” under the SUTA amendments to the Rural Electrification Act and it does not expand other discretions. The SUTA discretionary authorities defined by these provisions of the Rural Electrification Act are summarized here.

• **AUTHORITY OF SECRETARY.**—In carrying out subsection (b), the Secretary—

○ May make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;

○ May waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;

○ May give the highest funding priority to designated projects in substantially underserved trust areas; and

○ Shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.

The proposed regulation faithfully codifies those authorities and the constraint of financial feasibility is also aligned with the RUS programs to assure debt repayment and protect taxpayer funds. The agency does not have the administrative ability to exceed that authority. However, the commenter’s concerns about finding creative solutions to feasibility issues are well taken. The RUS has a long history of working closely with tribal communities to address loan security issues. Since the earliest days of the Rural Electrification Administration and now the RUS, the agency has found ways to reconcile taxpayer’s expectation of loan security with the sovereign rights of tribal governments. In this regard, the agency has adapted its mortgage documents and its loan contracts to accommodate unique tribal needs and circumstances.

The agency intends to continue to work with tribal organizations to find creative ways to address tribal needs while preserving loan security. Therefore, the final rule will adapt the language proposed by NTTA for § 1700.104 to read, “pursuant to normal underwriting practices, and such reasonable alternatives within the discretion of RUS that contribute to a financial feasibility determination for a particular eligible program or project.”

Eligible Communities

NTTA proposes that consistent with its advocacy before the Federal Communications Commission (FCC), Tribes be given an option to choose the service provider serving a Trust community or providing services for its own community and that the Trust Area governments be permitted to engage service providers on quality of service standards.

RUS Response

All RUS applicants are required to demonstrate in their application that they have secured all regulatory approvals necessary to construct infrastructure and deliver services. The RUS does not have the power to define the jurisdiction of tribal governments and is mindful of their sovereignty. The agency engages with tribes on a government to government basis. An applicant must demonstrate that they have secured all necessary regulatory approvals on the federal, tribal, state and local levels. Furthermore, applicants must demonstrate that their projects are financially feasible. The agency notes that an applicant seeking to finance infrastructure on trust territory would likely have a difficult time demonstrating financial feasibility

if it could not demonstrate tribal support, at a governmental or community level.

Grant Authority

The NTTA recommends that RUS convert loan funds to grant options for the benefit of “underserved” or “unserved” trust communities.

RUS Response

The availability of loan and grant funds are generally defined by the authorizing statutes the agency administers and the annual appropriations laws which allocate budget authority (BA) to various programs. The SUTA provisions of the RE Act do not grant the agency any new authorities to convert BA among and between loan, grant or loan guarantee categories. Where it has such authority, the agency takes into account the needs of eligible communities.

Flexible Proxies for Infrastructure Underservice

The NTTA commends the RUS for providing a list of proxies for determining “underservice” and recommends that an additional provision be added to allow for additional data to be submitted.

RUS Response

The proposed rule provides that the “explanation and documentation of the high need for the benefits of the eligible program * * * may” include data from the list of proxies. As such the list is not exclusive and applicants are welcome to provide additional information which could demonstrate to the Administrator that the high need for the benefits of the eligible program exists.

Technical Assistance

The NTTA recommends that RUS implement a technical assistance program. On a related matter, the NTTA also recommends that the RUS recommend to entities seeking to serve Trust Areas that they apply under SUTA.

RUS Response

“While the RUS has limited formal technical assistance funding for some of its programs,” the RUS is committed to expanding outreach to tribal communities and applicants on all of its programs. The RUS appreciates the suggestion and shares the commenter’s concern about technical assistance. That is why in the Broadband Initiatives Program of the American Recovery and Reinvestment Act of 2009, the RUS dedicated \$3,384,202 of budget authority to fund 19 technical assistance

grants. The majority of those awards were to Native American communities and organizations.

USDA State Rural Development Offices, RUS General Field Representatives, Rural Water Circuit Riders and RUS headquarters staff all offer assistance to applicants and are integral parts of the rural development program delivery. SUTA is an important initiative and RUS and RD staff members have been trained on the provision and will be trained on the final rule.

Cheyenne River Sioux Tribe

In comments filed pursuant to the proposed SUTA regulation, the Cheyenne River Sioux Tribe requests that the RUS interpret the statutory language for SUTA to allow a waiver of the statutory limitation on provision of grant in 7 U.S.C. 1926(a)(2) for Water and Waste Disposal grants.

7 U.S.C. 1926(a)(2)(A)(ii) states that "the amount of any grant made under the authority of this subparagraph shall not exceed 75 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area."

The commenter writes that the authority provided to the Secretary pursuant to Section 6105(C)(2) of the 2008 Farm Bill, allows the Secretary to waive the 75 percent grant limitation when considering financial assistance pursuant to 7 CFR 1780.

Neither authorizing statute for the Water and Waste Disposal loan and grant program, nor the program regulations, specifically state that a match is required. By way of contrast, in 7 U.S.C. 1926(a)(2)(C)(ii)(II), Congress specifically refers to matching funds related to Special Evaluation Assistance for Rural Communities and Households (SEARCH). In addition, in Section 306C of the Consolidated Farm and Rural Development Act (ConAct), Congress specifically authorized the Secretary to provide up to 100 percent grants for water and waste infrastructure to Native American Tribes to address health and sanitary issues.

However, the commenter further suggests that "a restriction of the total amount of project cost that would be funded with grant funds creates a matching requirement whether the word "matching" is used.

RUS Response

The Agency will consider requests for waiver of some, or all, of the loan portion of a loan-grant combination

under SUTA authority on a case-by-case basis. The decision to consider a waiver does not waive the over-arching requirement for a finding of need or feasibility pursuant to program regulations. The final determination of grant assistance will be made based on the following factors:

1. Eligibility requirements, including credit elsewhere certifications pursuant to 1780.7(d);
2. Underwriting and demonstration of need for grant, including the use of the prevailing program interest rate and the discretionary as low as 2% interest rates on loans pursuant to SUTA;
3. Availability of funds, including those funds available pursuant to the Section 306C grant set-aside for Native American Tribes or other applicable congressional set-asides; and
4. Percentage of the project that is located on SUTA eligible trust lands.

Eligibility Requirements

Eligibility requirements pursuant to 7 CFR 1780, such as credit elsewhere certifications (§ 1780.7(d)) and restrictions on the use of grant to reduce equivalent dwelling unit costs to a level less than similar systems cost (§ 1780.10(b)(1)), will apply to applicants seeking a waiver of the loan component under SUTA.

Finding of Need and Feasibility Through Underwriting

To ensure that limited grant funds are awarded to those projects with the greatest need, financial analysis and underwriting will continue to be used to determine the need for grant, including grant above the 75 percent level. The analysis will include the applicant's ability to incur debt at the prevailing program interest rate and the discretionary as low as 2 percent interest rates on loans pursuant to SUTA.

Availability of Funds

The commenter correctly noted that the Agency has limited grant funding available in the regular loan and grant program and a backlog of requests that exceeds \$3 billion. In addition, reductions in program funds will impact the ability of the Agency to provide needed grant funding. To support SUTA efforts to increase tribal participation in the program, the Agency will maximize the use of the Section 306C grant program, and other appropriate grant program set-asides to meet the grant needs of projects seeking waivers of the 75 percent grant limitation under SUTA. To ensure that grant funds are available to fund as many projects as possible, the agency may limit the total amount of

grant funding to be used to address requests for additional grants pursuant to SUTA, as well as total Agency grant investment in the project.

Percentage of Project on SUTA-Defined Trust Lands

Grant determinations will factor in the percentage of the proposed project that is located on substantially underserved trust lands as defined under SUTA.

List of Subjects in 7 CFR Part 1700

Authority delegations (Government agencies), Electric power, Freedom of information, Loan programs—communications, Loan programs—energy, Organization and functions (Government agencies), Rural areas, Telecommunications, Broadband loan and grant programs, water and waste loan and grant program, and the Distance Learning and Telemedicine program.

For reasons set out in the preamble, the agency amends chapter XVII of title 7 of the Code of Federal Regulations by amending part 1700 to read as follows:

PART 1700—GENERAL INFORMATION

- 1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301, 552; 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 7 CFR 2.7, 2.17 and 2.47.

§§ 1700.59 through 1700.99 [Reserved]

- 2. Add reserved §§ 1700.59 through 1700.99 to Subpart C of part 1700.
- 3. Add subpart D, consisting of §§ 1700.100 to 1700.150, to read as follows:

Subpart D—Substantially Underserved Trust Areas

Sec.	
1700.100	Purpose.
1700.101	Definitions.
1700.102	Eligible programs.
1700.103	Eligible communities.
1700.104	Financial feasibility.
1700.105	Determining whether land meets the statutory definition of "trust land."
1700.106	Discretionary provisions.
1700.107	Considerations relevant to the exercise of SUTA discretionary provisions.
1700.108	Application requirements.
1700.109	RUS review.
1700.110—1700.149	[Reserved]
1700.150	OMB Control Number.

Subpart D—Substantially Underserved Trust Areas

§ 1700.100 Purpose.

This subpart establishes policies and procedures for the Rural Utilities Service (RUS) implementation of the

Substantially Underserved Trust Areas (SUTA) initiative under section 306F of the Rural Electrification Act of 1936, as amended (7 U.S.C. 906f). The purpose of this rule is to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

§ 1700.101 Definitions.

Administrator means the Administrator of the Rural Utilities Service, or designee or successor.

Applicant means an entity that is eligible for an eligible program under that program's eligibility criteria.

Borrower means any organization that has an outstanding loan or loan guarantee made by RUS for a program purpose.

Completed application means an application that includes the elements specified by the rules for the applicable eligible program in form and substance satisfactory to RUS.

ConAct means the Consolidated Farm and Rural Development Act, as amended (7 USC 1921 *et seq.*).

Credit support means equity, cash requirements, letters of credit, and other financial commitments provided in support of a loan or loan guarantee.

Eligible community means a community as defined by 7 CFR 1700.103.

Eligible program means a program as defined by 7 CFR 1700.102.

Financial assistance means a grant, combination loan and grant, loan guarantee or loan.

Financial feasibility means the ability of a project or enterprise to meet operating expenses, financial performance metrics, such as debt service coverage requirements and return on investment, and the general ability to repay debt and sustain continued operations at least through the life of the RUS loan or loan guarantee.

Matching fund requirements means the applicant's financial or other required contribution to the project for approved purposes.

Nonduplication generally means a restriction on financing projects for services in a geographic area where reasonably adequate service already exists as defined by the applicable program.

Project means the activity for which financial assistance has been provided.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture, successor to the Rural Electrification Administration.

Substantially underserved trust area means a community in trust land with respect to which the Administrator determines has a high need for the benefits of an eligible program.

Trust land means "trust land" as defined in section 3765 of title 38, United States Code as determined by the Administrator under 7 CFR 1700.104.

Underserved means an area or community lacking an adequate level or quality of service in an eligible program, including areas of duplication of service provided by an existing provider where such provider has not provided or will not provide adequate level or quality of service.

§ 1700.102 Eligible programs.

SUTA does not apply to all RUS programs. SUTA only applies to eligible programs. An eligible program means a program administered by RUS and authorized in paragraph (a) of the RE Act, or paragraphs (b)(1), (2), (14), (22), or (24) of section 306(a) (7 U.S.C. 1926(a)(1), (2), (14), (22), (24)), or sections 306A, 306C, 306D, or 306E of the Con Act (7 U.S.C. 1926a, 1926c, 1926d, 1926e).

§ 1700.103 Eligible communities.

An eligible community is a community that:

- (a) Is located on Trust land;
- (b) May be served by an RUS administered program; and
- (c) Is determined by the Administrator as having a high need for benefits of an eligible program.

§ 1700.104 Financial feasibility.

Pursuant to normal underwriting practices, and such reasonable alternatives within the discretion of RUS that contribute to a financial feasibility determination for a particular eligible program or project, the Administrator will only make grants, loans and loan guarantees that RUS finds to be financially feasible and that provide eligible program benefits to substantially underserved trust areas. All income and assets available to and under the control of the Applicant will be considered as part of the Applicant's financial profile.

§ 1700.105 Determining whether land meets the statutory definition of "trust land."

The Administrator will use one or more of the following resources in determining whether a particular community is located in Trust land:

- (a) Official maps of Federal Indian Reservations based on information compiled by the U. S. Department of the Interior, Bureau of Indian Affairs and made available to the public;

- (b) Title Status Reports issued by the U. S. Department of the Interior, Bureau of Indian Affairs showing that title to such land is held in trust or is subject to restrictions imposed by the United States;

- (c) Trust Asset and Accounting Management System data, maintained by the Department of the Interior, Bureau of Indian Affairs;

- (d) Official maps of the Department of Hawaiian Homelands of the State of Hawaii identifying land that has been given the status of Hawaiian home lands under the provisions of section 204 of the Hawaiian Homes Commission Act, 1920;

- (e) Official records of the U.S. Department of the Interior, the State of Alaska, or such other documentation of ownership as the Administrator may determine to be satisfactory, showing that title is owned by a Regional Corporation or a Village Corporation as such terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*);

- (f) Evidence that the land is located on Guam, American Samoa or the Commonwealth of the Northern Mariana Islands, and is eligible for use in the Veteran's Administration direct loan program for veterans purchasing or constructing homes on communally-owned land; and

- (g) Any other evidence satisfactory to the Administrator to establish that the land is "trust land" within the meaning of 38 U.S.C. 3765(1).

§ 1700.106 Discretionary provisions.

(a) To improve the availability of eligible programs in eligible communities determined to have a high need for the benefits of an eligible program, the Administrator retains the discretion, on a case-by-case basis, to use any of the following SUTA authorities individually or in combination to:

- (1) Make available to qualified applicants financing with an interest rate as low as 2 percent;

- (2) Extend repayment terms;

- (3) Waive (individually or in combination) non-duplication restrictions, matching fund requirements, and credit support requirements from any loan or grant program administered by RUS; and

- (4) Give the highest funding priority to designated projects in substantially underserved trust areas.

(b) Requests for waivers of nonduplication restrictions, matching fund requirements, and credit support requirements, and requests for highest funding priority will be reviewed on a case-by-case basis upon written request

of the applicant filed pursuant to 7 CFR 1700.108.

(c) Notwithstanding the requirements in paragraph (b) of this section, the Administrator reserves the right to evaluate any application for an eligible program for use of the discretionary provisions of this subpart without a formal, written request from the applicant.

§ 1700.107 Considerations relevant to the exercise of SUTA discretionary provisions.

(a) In considering requests to make available financing with an interest rate as low as 2 percent, and extended repayment terms, the Administrator will evaluate the effect of and need for such terms on the finding of financial feasibility.

(b) In considering a request for a non-duplication waiver, the Administrator will consider the offerings of all existing service providers to determine whether or not granting the non-duplication waiver is warranted. A waiver of non-duplication restrictions will not be given if the Administrator determines as a matter of financial feasibility that, taking into account all existing service providers, an applicant or RUS borrower would not be able to repay a loan or successfully implement a grant agreement. Requests for waivers of non-duplication restrictions will be reviewed by taking the following factors into consideration:

(1) The size, extent and demographics of the duplicative area;

(2) The cost of service from existing service providers;

(3) The quality of available service; and

(4) The ability of the existing service provider to serve the eligible service area.

(c) Requests for waivers of matching fund requirements will be evaluated by taking the following factors into consideration:

(1) Whether waivers or reductions in matching or equity requirements would make an otherwise financially infeasible project financially feasible;

(2) Whether permitting a matching requirement to be met with sources not otherwise permitted in an affected program due to regulatory prohibition may be allowed under a separate statutory authority; and

(3) Whether the application could be ranked and scored as if the matching requirements were fully met.

(d) Requests for waivers of credit support requirements will be evaluated taking the following factors into consideration:

(1) The cost and availability of credit support relative to the loan security derived from such support;

(2) The extent to which the requirement is shown to be a barrier to the applicant's participation in the program; and

(3) The alternatives to waiving the requirements.

(e) The Administrator may adapt the manner of assigning highest funding priority to align with the selection methods used for particular programs or funding opportunities.

(1) Eligible programs which use priority point scoring may, in a notice of funds availability or similar notice, assign extra points for SUTA eligible applicants as a means to exercise a discretionary authority under this subpart.

(2) The Administrator may announce a competitive grant opportunity focused exclusively or primarily on trust lands which incorporates one or more discretionary authorities under this subpart into the rules or scoring for the competition.

§ 1700.108 Application requirements.

(a) To receive consideration under this subpart, the applicant must submit to RUS a completed application that includes all of the information required for an application in accordance with the regulations relating to the program for which financial assistance is being sought. In addition, the applicant must notify the RUS contact for the applicable program in writing that it seeks consideration under this subpart and identify the discretionary authorities of this subpart it seeks to have applied to its application. The required written request memorandum or letter must include the following items:

(1) A description of the applicant, documenting eligibility.

(2) A description of the community to be served, documenting eligibility in accordance with 7 CFR 1700.103.

(3) An explanation and documentation of the high need for the benefits of the eligible program, which may include:

(i) Data documenting a lack of service (i.e. no service or unserved areas) or inadequate service in the affected community;

(ii) Data documenting significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable service.

(iii) Data documenting economic need in the community, which may include:

(A) Per capita income of the residents in the community, as documented by the U.S. Department of Commerce, Bureau of Economic Analysis;

(B) Local area unemployment and not-employed statistics in the community, as documented by the U.S. Department of Labor, Bureau of Labor Statistics and/or the U.S. Department of the Interior, Bureau of Indian Affairs;

(C) Supplemental Nutrition Assistance Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Economic Research Service;

(D) National School Lunch Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Food and Nutrition Service;

(E) Temporary Assistance for Needy Families Program participation and benefit levels in the community, as documented by the U.S. Department of Health and Human Services, Administration for Children and Families;

(F) Lifeline Assistance and Link-Up America Program participation and benefit levels in the community, as documented by the Federal Communications Commission and the Universal Service Administrative Company;

(G) Examples of economic opportunities which have been or may be lost without improved service.

(H) Data maintained and supplied by Indian tribes or other tribal or jurisdictional entities on "trust land" to the Department of Interior, the Department of Health and Human Services and the Department of Housing and Urban Development that illustrates a high need for the benefits of an eligible program.

(4) The impact of the specific authorities sought under this subpart.

(b) The applicant must provide any additional information RUS may consider relevant to the application which is necessary to adequately evaluate the application under this subpart.

(c) RUS may also request modifications or changes, including changes in the amount of funds requested, in any proposal described in an application submitted under this subpart.

(d) The applicant must submit a completed application within the application window and guidelines for an eligible program.

§ 1700.109 RUS review.

(a) RUS will review the application to determine whether the applicant is eligible to receive consideration under this subpart and whether the application is timely, complete, and

responsive to the requirements set forth in 7 CFR 1700.107.

(b) If the Administrator determines that the application is eligible to receive consideration under this subpart and one or more SUTA requests are granted, the applicant will be so notified.

(c) If RUS determines that the application is not eligible to receive further consideration under this subpart, RUS will so notify the applicant. The applicant may withdraw its application or request that RUS treat its application as an ordinary application for review, feasibility analysis and service area verification by RUS consistent with the regulations and guidelines normally applicable to the relevant program.

§§ 1700.110–1700.149 [Reserved]

§ 1700.150 OMB Control Number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and have been assigned OMB control number 0572–0147.

Dated: May 23, 2012.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2012–14255 Filed 6–12–12; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 1, 5, 16, 28, and 160

[Docket ID OCC–2012–0005]

RIN 1557–AD36

Alternatives to the Use of External Credit Ratings in the Regulations of the OCC

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Final rule.

SUMMARY: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) contains two directives to Federal agencies including the OCC. First, section 939A directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of creditworthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings. Second, the agencies are required to remove any references to, or requirements of

reliance on, credit ratings and substitute such standard of creditworthiness as each agency determines is appropriate. The statute further provides that the agencies shall seek to establish, to the extent feasible, uniform standards of creditworthiness, taking into account the entities the agencies regulate and the purposes for which those entities would rely on such standards.

On November 29, 2011, the OCC issued a notice of proposed rulemaking (NPRM), seeking comment on a proposal to revise its regulations pertaining to investment securities, securities offerings, and foreign bank capital equivalency deposits to replace references to credit ratings with alternative standards of creditworthiness.

The OCC also proposed to amend its regulations pertaining to financial subsidiaries of national banks to better reflect the language of the underlying statute, as amended by section 939(d) of the Dodd-Frank Act.

Today, the OCC is finalizing those rules as proposed.

DATES: The final rule amending 12 CFR part 5 is effective on July 21, 2012. The final rules amending 12 CFR parts 1, 16, 28, and 160 are effective on January 1, 2013.

FOR FURTHER INFORMATION CONTACT:

Kerri Corn, Director for Market Risk, Credit and Market Risk Division, (202) 874–4660; Michael Drennan, Senior Advisor, Credit and Market Risk Division, (202) 874–4660; Carl Kaminski, Senior Attorney, or Kevin Korzeniewski, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Eugene H. Cantor, Counsel, Securities and Corporate Practices Division, (202) 874–5210, Office of the Comptroller of the Currency, 250 E Street S.W., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (the Dodd-Frank Act) contains two directives to Federal agencies including the OCC. First, section 939A directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of creditworthiness of a security or money market instrument and any references to or requirements in such regulations regarding credit ratings. Second, the agencies are required to remove references to, or requirements of

reliance on, credit ratings and substitute such standard of creditworthiness as each agency determines is appropriate. The statute further provides that the agencies shall seek to establish, to the extent feasible, uniform standards of creditworthiness, taking into account the entities the agencies regulate and the purposes for which those entities would rely on those standards.

On November 29, 2011, the OCC issued a notice of proposed rulemaking (NPRM), seeking comment on a proposal to revise its regulations pertaining to investment securities, securities offerings, and foreign bank capital equivalency deposits to replace references to credit ratings with alternative standards of creditworthiness. The OCC also proposed to amend its regulations pertaining to financial subsidiaries of national banks to better reflect the language of the underlying statute, as amended by section 939(d) of the Dodd-Frank Act.

The proposal generally pertained to rules that require national banks and Federal savings associations to determine whether a particular security or issuance qualifies, or does not qualify, for a specific treatment. For example, except for U.S. government securities and certain municipal securities, the OCC's investment securities regulations generally require a national bank or Federal savings association to determine whether or not a security is "investment grade" in order to determine whether purchasing the security is permissible.

The OCC received 11 comments on the proposed rules from banks, bank trade groups, individuals, and bank service providers. The majority of the commenters generally supported the proposed rules and stated that they presented a workable alternative to the use of credit ratings. A few commenters raised specific issues, which are addressed in more detail below.

After considering the comments and the issues raised, the OCC has decided to finalize the rules as proposed. In order to assist national banks and Federal savings associations in making these "investment grade" determinations, the OCC also is publishing a final guidance document today in this issue of the **Federal Register**.

II. Description of the Final Rules

For the purposes of its regulations at 12 CFR parts 1, 16, 28, and 160, the OCC is amending the definition of "investment grade" to remove references to credit ratings and nationally recognized statistical rating

¹ Public Law 111–203, Section 939A, 124 Stat. 1376, 1887 (July 21, 2010).

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THE DISTRICT COURT OF GUAM

ARNOLD DAVIS, on behalf of himself and all others similarly situated,

Plaintiff,

vs.

GUAM, GUAM ELECTION COMMISSION, ALICE M. TAIJERON, MARTHA C. RUTH, JOSEPH F. MESA, JOHNNY P. TAITANO, JOSHUA F. RENORIO, DONALD I. WEAKLEY, and LEONARDO M. RAPADAS,

Defendants.

CIVIL CASE NO. 11-00035

**DECISION AND ORDER
RE: MOTIONS FOR
SUMMARY JUDGMENT**

This court heard the following matters on September 1, 2016: Plaintiff’s Motion for Summary Judgment Pursuant to FED. R. CIV. P. 56(a) (*see* ECF No. 103); and Defendants’ Motion for Summary Judgment Pursuant to FED. R. CIV. P. 56 (*see* ECF No. 106). Appearing on behalf of the Plaintiff were Mr. J. Christian Adams of Election Law Center, PLLC, and Mr. Mun Su Park of Law Offices of Park and Associates. Appearing on behalf of the Defendants were Attorney General of Guam Elizabeth Barrett-Anderson, Deputy Attorney General Kenneth Orcutt, and Special Assistant Attorney General Julian Aguon. After careful consideration and after having reviewed the parties’ briefs, relevant cases and statutes, and having heard argument

1 from counsel on the matter, the court hereby **GRANTS** the Plaintiff's Motion for Summary
2 Judgment and finds **MOOT** Defendants' Motion for Summary Judgment for the reasons stated
3 herein.

4 **I. CASE OVERVIEW¹**

5 This is a civil rights action which deals with the topic of self-determination of the
6 political status of the island and who should have the right to vote on a referendum concerning
7 such. The Plaintiff claims that he is prohibited from registering to vote on the referendum, which
8 is a violation of the Voting Rights Act, the Organic Act of Guam, and his Fifth, Fourteenth and
9 Fifteenth Amendment rights.

10 **a. Factual Background²**

11 On November 22, 2011, Plaintiff filed his complaint for declaratory and injunctive relief.
12 *See* Compl., ECF No. 1. In the complaint, he alleges discrimination in the voting process by
13 Guam and the Defendants. *Id.* Plaintiff alleges that under Guam law, a Political Status Plebiscite
14 ("Plebiscite") is to be held concerning Guam's future relationship with the United States. *Id.* at ¶
15 8. Plaintiff, a white, non-Chamorro, male and resident of Guam, states that he applied to vote for
16 the Plebiscite but was not permitted to do so because he did not meet the definition of "Native
17 Inhabitant of Guam." *Id.* at ¶¶ 20 and 21. "Native Inhabitants of Guam" is defined as "those
18 persons who became U.S. Citizens by virtue of the authority and enactment of the 1950 Guam
19 Organic Act and descendants of those persons." 3 Guam Code Ann. § 21001(e).

20 The Plebiscite would ask native inhabitants which of the three political status options
21 they preferred. The three choices are Independence, Free Association with the United States, and

22 ¹ The page citations throughout this Decision and Order are based on the page numbering provided by the CM/ECF
23 system.

24 ² A portion of the factual background is based on the same information that was contained in a prior decision of the
court. *See* Report and Recommendation, ECF No. 44.

1 Statehood. *See* Compl., ECF No. 1, at ¶ 8.

2 Because Plaintiff was denied the right to register for the Plebiscite, he filed the instant
3 complaint, stating three causes of action. In his first cause of action, he alleges that by limiting
4 the right to vote in the Plebiscite to only Native Inhabitants of Guam, the purpose and effect of
5 the act was to exclude him and most non-Chamorros from voting therein, thereby resulting in a
6 denial or abridgment of the rights of citizens of the United States to vote on account of race,
7 color, or national origin, a violation of Section 2 of the Voting Rights Act of 1965.

8 In his second cause of action, Plaintiff alleges that Defendants are preventing him from
9 registering to vote in the Plebiscite because he is not a Native Inhabitant of Guam. Thus,
10 Defendants are engaged in discrimination on the basis of race, color, and/or national origin in
11 violation of various laws of the United States.

12 Lastly, the Plaintiff's third cause of action alleges that he is being discriminated in
13 relation to his fundamental right to vote in the Plebiscite in violation of the Organic Act of
14 Guam, the U.S. Constitution and other laws of the United States for the reason that he is not a
15 Native Inhabitant of Guam.

16 In his Prayer for Relief, Plaintiff seeks a judgment: enjoining Defendants from preventing
17 Plaintiff and those similarly situated from registering for and voting in the Plebiscite; enjoining
18 Defendants from using the Guam Decolonization Registry in determining who is eligible to vote
19 in the Plebiscite; enjoining Defendant Leonardo Rapadas from enforcement of the criminal law
20 provisions of the Act that make it a crime to register or allow a person to vote in the Plebiscite
21 who is not a Native Inhabitant of Guam³; and a declaration that Defendants' conduct has been

22 ³ In the appellate decision issued on May 8, 2015, the Ninth Circuit found that because Plaintiff did not argue on
23 appeal that this court erred by dismissing his claim against Mr. Leonardo Rapadas, the Attorney General of Guam,
24 to enforce a provision of Guam's criminal law that makes it a crime for a person who knows he is not a Native
Inhabitant to register for the Plebiscite, any claim of error in that regard was waived. *See Davis v. Guam*, 785 F.3d
1311, 1316 (9th Cir. 2015).

1 and would be, if continued, a violation of law.

2 **b. Relevant Procedural Background**

3 On November 22, 2011, Plaintiff filed his complaint herein. *See* Compl., ECF No. 1. On
4 December 2, 2011, the then-Attorney General of Guam, Leonardo M. Rapadas, a named
5 Defendant, on behalf of himself and all named defendants, moved to dismiss the complaint on
6 the ground that it failed to present a case or controversy. *See* Defs.' Mot., ECF No. 17. On
7 January 9, 2013, the court granted Defendants' motion to dismiss finding that the Plaintiff lacked
8 standing and the case was not ripe for adjudication. *See* Order, ECF No. 78. The Plaintiff
9 appealed.

10 On May 8, 2015, the Ninth Circuit issued its decision, finding that the Plaintiff has
11 standing to pursue his challenge to Guam's alleged race-based registration classification and that
12 the claim was ripe because the Plaintiff alleged he was currently subjected to unlawful unequal
13 treatment in the ongoing registration process. *See Davis v. Guam*, 785 F.3d 1311 (9th Cir. 2015).

14 On October 30, 2015, both parties filed their respective motions for summary judgment.
15 *See* Pl.'s Mot., ECF Nos. 103; and Defs.' Mot., ECF No. 106. The court heard the matter on
16 September 1, 2016, and thereafter took it under advisement.

17 **c. Instant Motions Before the Court**

18 **i. Plaintiff's Motion for Summary Judgment**

19 The Plaintiff moves the court for a judgment pursuant to FED. R. CIV. P. 56(a), wherein
20 he seeks the enjoinder of the Plebiscite, and (ii) a declaration from the court that the Plebiscite
21 violates the Fourteenth and Fifteenth Amendments of the United States Constitution, the Voting
22 Rights Act, and the Organic Act. *See* Pl.'s Mot., ECF No. 103.

23 **ii. Defendants' Motion for Summary Judgment**

24 Defendants likewise move the court for a judgment pursuant to FED. R. CIV. P. 56,

1 wherein they seek judgment granted in their favor because Plaintiff cannot make a prima facie
2 case of impermissible race-based discrimination under the United States Constitution or any
3 federal statutes. *See* Defs.’ Mot., ECF No. 106.

4 **II. JURISDICTION AND VENUE**

5 The court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 1331 and 1343, for
6 Plaintiff’s claims under the Voting Rights Act, the Organic Act of Guam, and his Constitutional
7 rights under the Fifth, Fourteenth, and Fifteenth Amendments. *See also* 48 U.S.C. § 1424.

8 Venue is proper in this judicial district, the District Court of Guam, because Defendants
9 are Guam, the Government of Guam and its officials, and all of the events giving rise to
10 Plaintiff’s claims occurred here. *See* 28 U.S.C. § 1391.

11 **III. SUMMARY JUDGMENT STANDARD**

12 “The court shall grant summary judgment if the movant shows that there is no genuine
13 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R.
14 CIV. P. 56(a). To demonstrate that a material fact cannot be genuinely disputed, the movant may:

- 15 (A) cit[e] to particular parts of materials in the record, including depositions,
16 documents, electronically stored information, affidavits or declarations,
stipulations (including those made for purposes of the motion only), admissions,
interrogatory answers, or other materials; or
- 17 (B) show[] that the materials cited do not establish the absence or presence of a
18 genuine dispute, or that an adverse party cannot produce admissible evidence to
support the fact.

19 FED. R. CIV. P. 56(c)(1).

20 A fact is material if it might affect the outcome of the suit under the governing
21 substantive law. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A factual
22 dispute is “genuine” where “the evidence is such that a reasonable jury could return a verdict for
23 the nonmoving party.” *Id.* Thus, the evidence presented in opposition to summary judgment must
24 be “enough ‘to require a jury or judge to resolve the parties’ differing versions of the truth at

1 trial.” *Aydin Corp. v. Loral Corp.*, 718 F.2d 897, 902 (9th Cir. 1983) (quoting *First Nat’l Bank*
2 *v. Cities Servs. Co.*, 391 U.S. 253, 288-89 (1968)).

3 A shifting burden of proof governs motions for summary judgment under Rule 56. *In re*
4 *Oracle Corp. Securities Litig.*, 627 F.3d 376, 387 (9th Cir. 2010). The party seeking summary
5 judgment bears the initial burden of proving an absence of a genuine issue of material fact. *Id.*
6 (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). Where, as here, the moving party
7 will have the burden of proof at trial, “the movant must affirmatively demonstrate that no
8 reasonable trier of fact could find other than for the moving party.” *Soremekun v. Thrifty Payless,*
9 *Inc.*, 509 F.3d 978, 984 (9th Cir. 2007).

10 If the moving party meets that burden, the burden then shifts to the nonmoving party to
11 set forth “specific facts showing that there is a genuine issue for trial.” *Liberty Lobby*, 477 U.S.
12 at 250. “The mere existence of a scintilla of evidence . . . will be insufficient” and the nonmoving
13 party “must do more than simply show that there is some metaphysical doubt as to the material
14 facts.” *Id.* at 252; *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986).
15 Viewing the evidence in the light most favorable to the non-moving party, “[w]here the record
16 taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is
17 no ‘genuine issue for trial.’” *Matsushita*, 475 U.S. at 587.

18 IV. DISCUSSION

19 a. **Guam law on voter qualification for the Plebiscite violates the Fifteenth** 20 **Amendment’s prohibition of racial discrimination in voting.**

21 The Fifteenth Amendment provides that “[t]he right of citizens of the United States to
22 vote shall not be denied or abridged by the United States or by any State on account of race,
23 color, or previous condition of servitude.” U.S. CONST. AMEND. XV. The Fifteenth Amendment
24 applies to Guam. *See* 48 U.S.C. §1421b(u) (“The following provisions of and amendments to the
Constitution of the United States are hereby extended to Guam . . . and shall have the same force

1 and effect there as in the United States or in any State of the United States: . . . the fifteenth []
2 amendment[.].”).

3 Plaintiff asserts that Defendants are in violation of the Fifteenth Amendment because
4 Plaintiff was denied the right to register to vote in the Plebiscite on account of his race. Pl.’s
5 Mem. in Supp. of Pl.’s Mot. (“Pl.’s Mem.”), ECF No. 104, at 20. Plaintiff is Caucasian with no
6 Chamorro ancestry. Pl.’s Ex. A, ECF No. 105-1, at 2. He attempted to register to vote in the
7 Plebiscite, but the Guam Election Commission did not accept his application to register and
8 instead marked the form as “void.” Pl.’s Ex. C, ECF 105-3, at 1.

9 **i. The Fifteenth Amendment prohibits use of ancestry as proxy for race.**

10 “Fundamental in purpose and effect and self-executing in operation, the [Fifteenth]
11 Amendment prohibits all provisions denying or abridging the voting franchise of any citizen or
12 class of citizens on the basis of race.” *Rice v. Cayetano*, 528 U.S. 495, 512 (2000). While there
13 were attempts to manipulate the system to exclude others from voting since the passage of the
14 Amendment, the Supreme Court noted that “[t]he Fifteenth Amendment was quite sufficient to
15 invalidate a scheme which did not mention race but instead used ancestry in an attempt to
16 confine and restrict the voting franchise.” *Id.* at 113. “[R]acial discrimination is that which
17 singles out identifiable classes of persons . . . solely because of their ancestry or ethnic
18 characteristics.” *Id.* at 515, citing *Saint Francis College v. Al-Khazraji*, 481 U.S. 604, 613 (1987)
19 (internal quotation marks omitted).

20 Recognizing that ancestry can be proxy for race, the court in *Rice* found that the voting
21 qualification requirements for the Office of Hawaiian Affairs (“OHA”) trustees, which are
22 chosen in a statewide election, uses ancestry as proxy for race. 528 U.S. at 514. In that case, the
23 Hawaiian Constitution limits the right to vote for the OHA trustees to “Hawaiians,” which
24 consists of two subclasses of the Hawaiian citizenry. *Id.* at 498-99. The smaller class, known as

1 “native Hawaiians,” is made up of descendants of not less than one-half part of the races
2 inhabiting the Hawaiian Islands prior to 1778.⁴ *Id.* at 499. The larger class, known as
3 “Hawaiians,” is made up of descendants of people inhabiting the Hawaiian Islands in 1778.⁵ *Id.*
4 Petitioner Rice is a citizen of Hawaii, but he does not have the requisite ancestry to qualify to
5 vote in the OHA trustee election. *Id.* His application to register to vote for OHA trustees was
6 denied. *Id.* at 510.

7 The state of Hawaii maintains that the statute “is not a racial category at all but instead a
8 classification limited to those whose ancestors were in Hawaii at a particular time, regardless of
9 their race.” *Id.* at 514. The state puts forth the following arguments: some inhabitants of Hawaii
10 as of 1778 may have migrated from the Marquesas Islands, the Pacific Northwest, and Tahiti;
11 “the restriction in its operation excludes a person whose traceable ancestors were exclusively
12 Polynesian if none of those ancestors resided in Hawaii in 1778;” and, “the vote would be
13 granted to a person who could trace, say, one sixty-fourth of his or her ancestry to a Hawaiian
14 inhabitant on the pivotal date.” *Id.*

15 The Supreme Court rejected the state’s argument that the classification is not racial in
16 nature, holding that ancestry can be proxy for race. *Id.* In finding that the state “has used ancestry
17 as a racial definition and for a racial purpose”, the court noted that “[t]he very object of the
18 statutory definition in question and of its earlier congressional counterpart in the Hawaiian
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21 ⁴ The statutory definition of “native Hawaiian” is as follows: “‘Native Hawaiian’ means any descendant of not less
22 than one-half part of the races inhabiting the Hawaiian Islands previous to 1778, as defined by the Hawaiian Homes
23 Commission Act . . . provided that the term identically refers to the descendants of such blood quantum of such
24 aboriginal peoples which exercised sovereignty and subsisted in the Hawaiian Islands in 1778 and which peoples
thereafter continued to reside in Hawaii.”

⁵ The statutory definition of “Hawaiian” is as follows: “‘Hawaiian’ means any descendant of the aboriginal peoples
inhabiting the Hawaiian Islands which exercised sovereignty and subsisted in the Hawaiian Islands in 1778, and
which peoples thereafter have continued to reside in Hawaii.”

1 Homes Commission Act⁶ is to treat the early Hawaiians as a distinct people[.]” *Id.* at 514-15.
2 Looking at the legislative history, the court also noted that the definition of “Hawaiian” was
3 changed to substitute “peoples” for “races” but such change—based on congressional committee
4 records—was “merely technical” and the meaning did not change: “peoples” still meant “races.”
5 *Id.* at 516.

6 “Distinctions between citizens solely because of their ancestry are by their very nature
7 odious to a free people whose institutions are founded upon the doctrine of equality.”
8 *Hirabayashi v. United States*, 320 U.S. 81, 100 (1943). Further, “it demeans the dignity and
9 worth of a person to be judged by ancestry instead of by his or her own merit and essential
10 qualities.” *Rice*, 528 U.S. at 517.

11 **ii. “Native Inhabitants of Guam” is a race-based classification.**

12 The statute in question is the definition of “Native Inhabitants of Guam,” as provided in
13 Public Law No. 25-106 and codified in 3 Guam Code Ann. § 21001(e), since Guam law requires
14 that only “Native Inhabitants of Guam” be allowed to vote in the Plebiscite.⁷ *See* 1 Guam Code
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16 ⁶ The Hawaiian Homes Commission Act set aside approximately 200,000 acres of land and created a program of
loans and long-term leases for the benefit of native Hawaiians. *Rice*, 528 U.S. at 507.

17 ⁷ Section 2110 of Title 1 of the Guam Code Annotated provides in its entirety the following:

18 **Plebiscite Date and Voting Ballot.**

- 19 (a) The Guam Election Commission shall conduct a “Political Status Plebiscite”, at which the following
question, which shall be printed in both English and *Chamorro*, shall be asked of the eligible voters:

20 In recognition of your right to self-determination, which of the following political status options
do you favor? (Mark ONLY ONE):

- 21 1. Independence ()
22 2. Free Association with the United States of America ()
23 3. Statehood ().

23 Persons eligible to vote shall include those persons designated as Native Inhabitants of Guam, as defined
24 within this Chapter of the Guam Code Annotated, who are eighteen (18) years of age or older on the date of
the “Political Status Plebiscite” and are registered voters on Guam.

The “Political Status Plebiscite” mandated in Subsection (a) of this Section shall be held on a date of the

1 Ann. § 2110. “Native Inhabitants of Guam” is defined as “persons who became U.S. Citizens by
2 virtue of the authority and enactment of the 1950 Guam Organic Act and descendants of those
3 persons.” 3 Guam Code Ann. § 21001(e). “Descendant” is defined as “a person who has
4 proceeded by birth . . . from any ‘Native Inhabitant of Guam’ . . . and who is considered placed
5 in a line of succession from such ancestor where such succession is by virtue of *blood relations*.”
6 3 Guam Code Ann. §21001(c) (emphasis added).

7 In other words, the voter qualification for the Plebiscite is set up to limit it to only two
8 groups: (1) those individuals who obtained their U.S. citizenship by virtue of the Organic Act in
9 1950, and (2) their descendants. *Id.* Similar to *Rice*, the voter qualification here is a proxy for
10 race because it excludes nearly all persons whose ancestors are not of a particular race. *See* 528
11 U.S. at 514-16. As Plaintiff correctly points out, even an adopted child of a descendant cannot
12 vote in the Plebiscite. *See* Pl.’s Reply, ECF No. 115, at 8-9. Bloodline/ancestry is required.

13 Defendants argue that the statute is not race-based but rather based on “the 1950 date
14 [which] refers to the passage of a specific law that changed the citizenship status of a defined
15 class of people.”⁸ Defs.’ Opp’n., ECF No. 112, at 11. Defendants support their non-racial
16 argument by pointing to the 1950 census for Guam, which confirms that there are multiple racial
17 or ethnic groups that became U.S. citizens by virtue of the Organic Act. *Id.* at 11-12, 18. It was
18 not limited to one racial group such as Chamorros. *Id.* The court finds this argument to be
19 unpersuasive. *See Davis v. Commonwealth Election Comm’n.*, 844 F.3d 1087, 1093 (9th Cir.

20 General Election at which seventy percent (70%) of eligible voters, pursuant to this Chapter, have been
21 registered as determined by the Guam Election Commission.

22 1 Guam Code. Ann. § 2110.

23 ⁸ Defendants also argue that the definition of “Native Inhabitants of Guam” does not “provide that all Chamorro
24 people are eligible to vote” in the Plebiscite and therefore, the statute is not racial. Defs.’ Opp’n., ECF No. 112, at 6.
The U.S. Supreme Court in *Rice* has already addressed this issue, holding that “[s]imply because a class defined by
ancestry does not include all members of the race does not suffice to make the classification race neutral.” *Rice*, 528
U.S. at 516-17.

1 2016) (“While there is historical evidence that some persons who were not of Chamorro or
2 Carolinian ancestry lived on the islands in 1950 [and therefore qualify as a ‘full blooded’
3 Northern Marianas descent], *Rice* forecloses this argument. The Fifteenth Amendment will not
4 tolerate a voter restriction which singles out identifiable classes of persons . . . solely because of
5 their ancestry or ethnic characteristics.” (internal quotation marks and citations omitted)).

6 The 1950 census data shows that the total population in Guam was 59,498. *See* Pl.’s Ex.
7 D1, ECF No. 105-5, at 4. Out of that number were 26,142 non-U.S. citizens.⁹ *Id.* The breakdown
8 of these non-U.S. citizens is as follows: 24 Chinese; 36 Whites; 127 Filipinos; 25,788
9 Chamorros; and 167 “Other”. *Id.* That is a total of 354 non-Chamorros living on Guam in 1950, a
10 diminutive number (approximately 1.4 percent) compared to the 25,788 Chamorros on Guam
11 during that same time period.

12 In *Rice*, the state of Hawaii advanced a similar argument as the Defendants here, noting
13 that the individuals living in Hawaii in 1778 are not exclusively from one particular race but
14 rather, some came from the Marquesas Islands, the Pacific Northwest, and Tahiti. 528 U.S. at
15 514. The Supreme Court rejected this line of argument. *Id.* It noted that the inhabitants shared
16 common physical characteristics and a common culture, making them distinct people, and the
17 law reflects “the State’s effort to preserve that commonality of people to the present day.” *Id.* at
18 514-15. The court further went on to review the history of the statute in question. *Id.* at 515.

19 In this case, the current Plebiscite law traces its beginnings to Public Law No. 23-130,
20 which became law on December 30, 1996. *See* Pub. L. No. 23-130; Pl.’s Ex. F, ECF No. 105-7.
21 Therein, the Guam Legislature established a Chamorro Registry for the purpose of establishing
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23 ⁹ This number represents the total population of non-U.S. citizens residing on Guam in 1950, who presumably,
24 became U.S. citizens by virtue of the Organic Act. Accordingly, this is the number that represents those who are
considered “Native Inhabitants” pursuant to 3 Guam Code Ann. § 21001(e). Those living on Guam who were
already U.S. citizens prior to the enactment of the Organic Act do not fall within the definition of “Native
Inhabitants.” *See id.*

1 an index of names by the Guam Election Commission for registering Chamorros and recording
2 their names. *Id.* The Registry was to serve as a tool to educate Chamorros about their status as an
3 indigenous people and their inalienable right to self-determination. *Id.* at § 1.

4 Shortly after the passage of the above-referenced law, the Guam Legislature passed
5 Public Law No. 23-147, and it became law on January 23, 1997. *See* Pub. L. No. 23-147; Pl.’s
6 Ex. G, ECF No. 105-8. This new law created the Commission on Decolonization for the
7 Implementation and Exercise of Chamorro Self-Determination (“Commission on
8 Decolonization”). *See* § 4, Pub. L. No. 23-147. The purpose of the Commission was to ascertain
9 the desires of the “Chamorro people of Guam” as it pertained to their future political relationship
10 with the United States. *Id.* at § 5. The law required the Guam Election Commission to conduct a
11 Political Status Plebiscite at the next island-wide Primary Election,¹⁰ during which the
12 “Chamorro people entitled to vote” would be asked to choose among three political status
13 options: Independence, Free Association, and Statehood. *Id.* at § 10. The results of the Plebiscite
14 were to be transmitted to the President and Congress of the United States and the Secretary
15 General of the United Nations. *Id.* at § 5.

16 In that same public law, “Chamorro people of Guam” was defined as “[a]ll inhabitants of
17 Guam in 1898 and their descendants who have taken no affirmative steps to preserve or acquire
18 foreign nationality.” *Id.* at § 2(b). Thereafter, the Guam Legislature passed Public Law No. 25-
19 106, which became law on March 24, 2000. *See* Pub. L. No. 25-106; Pl.’s Ex. H, ECF No. 105-9.
20 That law changed the persons entitled to vote from “Chamorro people of Guam” to “Native
21 Inhabitants of Guam”. *See* § 11, Pub. L. 25-106. The definition of “Native Inhabitants of Guam”
22 in Public Law No. 25-106 (codified as 3 Guam Code Ann. § 21001(e)), is nearly identical to the

23 ¹⁰ The law was later amended, and it required the Plebiscite to be held on a general election at which seventy percent
24 (70%) of eligible voters have been registered as determined by the Guam Election Commission. *See* § 23, Pub. L.
No. 27-106.

1 definition of “Native Chamorro”¹¹ as defined in the Chamorro Land Trust Commission Act.¹²
2 *See* 21 Guam Code Ann. § 75101(d).

3 Public Law No. 25-106 also created a Guam Decolonization Registry, which is a registry
4 for qualified voters of the Plebiscite.¹³ *See* Pub. L. No. 25-106. The Guam Legislature also
5 provided for the waiver of an affidavit (required when you register to vote for the Plebiscite) for
6 individuals who have received a Chamorro Land Trust Commission (“CLTC”) lease or have
7 been preapproved to receive one (pursuant to 21 Guam Code Ann. § 75107, to be eligible for a
8 CLTC lease, one must be a “Native Chamorro”). *See* § 3, Pub. L. No. 30-102, codified as
9 Guam Code Ann. §21002.1. That same law also automatically registers those individuals into the
10 registration roll of the Guam Decolonization Registry. *Id.*

11 The specific sequence of events shows that the Guam Legislature passed into law Public
12 Law No. 25-106 soon after the U.S. Supreme Court issued its decision in *Rice*, wherein the court
13 invalidated the use of ancestry as a voting qualification requirement, because it was determined
14 to be a proxy for race. *See* 528 U.S. 495 (2000). The *Rice* decision was issued on February 23,
15 2000, and Public Law No. 25-106 was passed by the legislature on March 9, 2000, and enacted
16 into law on March 24, 2000. *See id.* and Pl.’s Ex. H, ECF No. 105-9.

17 The court finds that similar to *Rice*, the use of “Native Inhabitants of Guam” as a
18 requirement to register and vote in the Plebiscite is race-based and that the Guam Legislature has
19 used ancestry as a racial definition and for a racial purpose. It is clear to the court that the Guam
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21 ¹¹ “Native Inhabitants of Guam” is defined as “those persons who became U.S. Citizens by virtue of the authority
22 and enactment of the 1950 Guam Organic Act and descendants of those persons”, whereas “Native Chamorro” is
23 defined as “any person who became a U.S. citizen by virtue of the authority and enactment of the Guam Organic Act
24 or descendants of such person.” *See* 3 Guam Code Ann. § 21001(e) and 21 Guam Code Ann. §75101.

¹² The Chamorro Land Trust Commission was created for the administration of the returned land for native Chamorros. *See* Chapter 75 of Title 21 of the Guam Code Annotated.

¹³ It was a registry separate and apart from the Chamorro Registry that was created by Public Law No. 23-130.

1 Legislature attempted to manipulate the system to exclude others from voting by immediately
2 deleting the term “Chamorro people” from the law that mandated the Plebiscite and replacing it
3 with “Native Inhabitants”—a neutral term on its face, without any reference to a specific race,
4 when the *Rice* decision was issued. Yet, the Guam Legislature used the same definition of
5 “Native Chamorro”, as contained in the Chamorro Land Trust Commission Act, for the artfully
6 and newly created term “Native Inhabitants” in the Plebiscite statute. Further, a “Native
7 Chamorro” who has received or has been preapproved for a CLTC lease is automatically
8 registered into the Plebiscite registration roll (the Guam Decolonization Registry). Gleaning from
9 all of these—similar to *Rice*, the very object of the statutory definition in question here is to treat
10 the Chamorro people as “a distinct people”. *See Rice*, 528 U.S. at 515. It is clear to the court that
11 the Guam Legislature has used ancestry as a proxy for race.

12 Defendants attempt to distinguish *Rice* from the present case by arguing that the statute
13 being challenged has no discriminatory purpose.¹⁴ *See* Defs.’ Opp’n., ECF No. 112, at 9, 16.
14 Discriminatory purpose is required under the Fifteenth Amendment when a restriction is race-
15 neutral on its face. *Davis*, 844 F.3d at 1094 n.5, citing *City of Mobile, Ala. v. Bolden*, 446 U.S.
16 55, 62 (1980). Defendants support their argument by pointing to the “Legislative Findings and
17 Intent” contained in Section 1 of Public Law No. 25-106. It states in relevant part the following:

18 . . . *I Liheslaturan Guahan’s* [Guam Legislature’s] intent that the
19 qualifications for voting in the political status plebiscite shall *not* be race-
20 based, but based on a clearly defined political class of people resulting
from historical acts of political entities in relation to the people of Guam.

21 P.L. 25-106, § 1. *See* Defs.’ Opp’n., ECF No. 112, at 7. The Guam Legislature further
22 emphasized that “[t]he intent of [the legislation] shall *not* be construed nor implemented

23 _____
24 ¹⁴ Defendants also seem to infer that “animus” is required in order for the court to find a violation of the Fifteenth
Amendment. *See generally* Defs.’ Opp’n., ECF No. 112 (Defendants used the term repeatedly throughout their
brief.). However, Defendants have not provided any legal authority to support this inference.

1 by the government officials effectuating its provisions to be race based, but founded upon
2 the classification of persons as defined by the U.S. Congress in the 1950 Organic Act of
3 Guam.” 3 Guam Code Ann. § 21000. It further noted that the Guam Decolonization
4 Registry (registry for the Plebiscite) is a separate registry from the Chamorro Registry
5 and that it is not “one based on race.” *Id.*

6 Defendants contend that “[i]t is firmly established that the carefully chosen words of a
7 statute prevail over the isolated statements of individual lawmakers,” providing a string citation
8 to cases regarding review of legislative history to determine legislative intent.¹⁵ *See* Defs.’
9 Opp’n., ECF No. 112, at 7-8. The isolated statements being referred to were made by then-
10 senator Tina Muna Barnes. *Id.* at 6-7. In Plaintiff’s Motion, he discussed Ms. Muna Barnes’
11 introduction of Bill No. 151-31, which would have allowed all registered voters to vote in the
12 Plebiscite. *See* Pl.’s Mem., ECF No. 104, at 12.

13 The following conversation transpired during the Roundtable Meeting on the Political
14 Status Bills (Bill Nos. 151-31, 154-31, and 168-31) on May 20, 2011:

15 Sen. Tom Ada: “Chairman, may I speak to best clarify the issue. This
16 (indicating Bill No. 151) does say that all registered voters in Guam can
17 vote on this. To include, the outside people, even if they’re not
18 Chamorro.”

19 Sen. Muna Barnes: “I apologize that wasn’t the intent. This straw poll
20 would not be the determinant factor in what the people want. I support a
21 Chamorro-only vote, and it’s up to the people, the Chamorros of Guam . . .
22 [to] determine what their determination should be. Again, I apologize, that
23 wasn’t the intent.”

24 . . .

22 ¹⁵ For example, in *Garcia v United States*, the court found that “[i]n surveying legislative history we have repeatedly
23 stated that the authoritative source for finding the Legislature’s intent lies in the Committee Reports on the bill,
24 which represent the considered and collective understanding of those Congressmen involved in drafting and
studying proposed legislation . . . We have eschewed reliance on the passing comments of one Member . . . and
casual statements from the floor debates . . . we stated that Committee Reports are more authoritative than comments
on the floor[.]” 469 U.S. 70, 76 (1984). This is in line with one of the factors articulated in *Arlington Heights* in
determining intent; that is, the court reviews legislative history, including the minutes and committee reports of the
legislation, as discussed *infra*.

1
2 Sen. Respicio: “. . . You just heard Sen. Barnes clarify and this bill would
3 have to be amended because it says by all Guam voters. She just clarified
4 that her intent was only to make those eligible to vote on the plebiscite
5 vote, so bill 151 is kind of closer now to bill 154 that Sen. Guthertz is
6 proposing but only 154 kind of talks about the methodology to which the
7 vote shall take place so you can have some comfort knowing that the
8 author is more in agreement with most of us on this issue . . .”

9 . . .

10 Sen. Respicio: “But earlier you said that it wasn’t your intent to make all
11 of Guam voters vote and so that you agreed with the position that only
12 people who should be eligible to vote . . .”

13 Sen. Muna Barnes: “Yes, and I said that the drive for the Chamorro only
14 vote should exist, I’ve said that over and over and over . . .”

15 Sen. Respicio: “But first would you want everybody who is a Guam voter
16 to vote on their preferred political status and it’s really it’s not a Chamorro
17 only vote because it’s date-based rather than race-based so people ask that
18 we not call it Chamorro only vote because that’s what’s been supported . .
19 .”

20 Sen. Muna Barnes: “As defined by the laws and provisions that are in
21 place today, Mr. Chairman.”

22 Sen. Respicio: “But are you suggesting then, we amend this ‘by all of
23 Guam voters’ and limit it to those eligible to vote in the plebiscite which is
24 what the original law is.”

Sen. Muna Barnes: “Yes.”

. . .

Sen. Respicio: “I think what she’s saying is that, maybe I’m
misunderstanding, but only those who are eligible to vote on the plebiscite
should vote for what their preferred status is. Only those who obtained
their citizenship through the Organic Act should be the one to vote on the
plebiscite, that’s most of our positions, and the Senator just clarified that it
wasn’t her intent to make everybody vote, although the bill reflected that,
so this bill will have to be amended, and so the purpose of this roundtable .
. . . , is that we have three bills with all completing outcomes, and rather
than having a public hearing and looking like we were all over the place,
we wanted to have a roundtable to kind of focus on what kind of direction
we wanted to have.”

1 Portion of Transcript during Roundtable Meeting on the Political Status Bills (May 20, 2011).
2 See Pl.'s Ex. I, ECF No. 105-10, at 75-76, 84. The legislative history of Bill No. 151-31 is
3 contained within the legislative committee report of Bill No. 154-31, which became Public Law
4 No. 31-92. Plaintiff notes that Bill No. 151-31 was subsequently withdrawn. Pl.'s Mem., ECF
5 No. 104, at 12.

6 Defendants argue that Ms. Muna Barnes' isolated statements should carry very little
7 weight, if any, in determining whether there was discriminatory purpose in the Plebiscite. See
8 Defs.' Opp'n., ECF No. 112, at 6-7. Defendants' reliance on the cases they cited to on this point
9 is misplaced. See Defs.' Opp'n., ECF No. 112, at 7-8. For example, in *Florida v. United States*,
10 the district court noted that the legislator's sole statement "is the only statement to which the
11 defendants point as evidencing a discriminatory purpose on the part of the Florida legislature."
12 885 F.Supp.2d 299, 354 (D.D.C. Aug. 16, 2012). That is not the case here. Plaintiff does not rely
13 solely on one legislator's statement to demonstrate discriminatory purpose. He relies on the
14 legislative history and the surrounding circumstances of the enactment of the Plebiscite statute.

15 The Supreme Court in *Arlington Heights v. Metropolitan Housing Development Corp.*
16 articulated the following method in determining discriminatory purpose:

17 Determining whether invidious discriminatory purpose was a motivating
18 factor demands a sensitive inquiry into such circumstantial and direct
19 evidence of intent as may be available. . . . The *historical background* of
20 the decision is one evidentiary source, particularly if it reveals a series of
21 official actions taken for invidious purposes. . . . The *specific sequence*
22 *of events leading up the challenged decision* also may shed some light on
the decisionmaker's purposes. Departures from the normal procedural
sequence also might afford evidence that improper purposes are playing a
role. . . . The *legislative or administrative history* may be highly
relevant, *especially where there are contemporary statements by members*
of the decisionmaking body, minutes of its meetings, or reports.

23 429 U.S. 252, 265-68 (1977) (emphasis added).

24 The court recognizes that the Guam Legislature articulated its intent in Public Law 25-

1 106, that the Plebiscite not be based on race. However, the court cannot ignore the specific
2 sequence of events leading up to the passage of that particular legislation. As discussed *supra*,
3 the legislation was passed into law immediately after the *Rice* decision. Further, the definition of
4 “Native Inhabitants of Guam” is nearly identical to the definition of “Native Chamorro”—a
5 facially race-based term—used in the Chamorro Land Trust Commission Act. The law also
6 provides that a “Native Chamorro” who has received or is preapproved for a CLTC lease be
7 automatically registered into the Guam Decolonization Registry, a registry maintained for the
8 purposes of the Plebiscite.

9 Further, aside from Ms. Muna Barnes’ reference to the Plebiscite as a “Chamorro-only”
10 vote during the roundtable meeting, the legislative committee report reveals that there was a
11 common theme from the individuals who spoke at the meeting—that being that the Plebiscite is a
12 Chamorro-only vote and non-Chamorros should not be allowed to have a say in the Chamorro
13 self-determination process. *See* Legislative Committee Report on Bill No. 154-31 (COR) As
14 Substituted, Pl.’s Ex. I, ECF No. 105-10, at 73-100. Although the committee report that
15 contained this information was for Public Law No. 31-92 and not the committee report for Public
16 Law No. 25-106, the court cannot ignore the historical background and legislative history of the
17 Plebiscite as a whole. Public Law No. 31-92 is relevant to the Commission on Decolonization
18 legislation, having provided for the registration method and educational campaign programs for
19 the Plebiscite. *See* Pub. L. No. 31-92; Pl.’s Ex. I, ECF No. 105-10. In fact, the legislative body as
20 a whole referred to the self-determination as “Chamorro” self-determination, when it required
21 that the registration method and educational campaign programs for the Plebiscite were to be
22 developed in consultation with the “Commission on Decolonization for the Implementation and
23 Exercise of *Chamorro* Self Determination.” *See id.*, §§ 1-3.

24 Defendants also argue that the discriminatory purpose must be the primary or dominant

1 factor in creating the legislation, citing to *Bush v. Vera*, 517 U.S. 952 (1996); and *Miller v.*
2 *Johnson*, 515 U.S. 900 (1995). See Defs.’ Opp’n., ECF No. 112, at 11. These cases are
3 inapposite. Both *Vera* and *Miller* deal with the constitutionality of redistricting legislations. The
4 Supreme Court explicitly recognized the complexity of electoral districting and thus placed a
5 burden on the plaintiff to show that “race was the predominant factor motivating the legislature’s
6 decision to place a significant number of voters within or without a particular district.” *Miller*,
7 515 U.S. at 913-16.

8 In this case, “[r]acial discrimination need only be one purpose, and not even a primary
9 purpose, of an official act in order for a violation of the Fourteenth and the Fifteenth
10 Amendments to occur.” *Velasquez v. City of Abilene*, 725 F.2d 1017, 1022 (5th Cir. 1984) (citing
11 *Arlington Heights*, 429 U.S. at 265).

12 Based on the foregoing, the court finds that the Plebiscite law violates the Fifteenth
13 Amendment.

14 **iii. The Plebiscite is an election within the meaning of the Fifteenth**
15 **Amendment.**

16 Defendants contend that the Plebiscite is not an election within the meaning of the
17 Fifteenth Amendment because “no public official will be elected, nor will any issue of state law
18 or policy be decided.” See Defs.’ Opp’n., ECF No. 112, at 13-14. Defendants argue that the
19 Plebiscite’s purpose is merely to ascertain the intent of the Native Inhabitants of Guam as to their
20 future political relationship with the United States. *Id.* at 14. The court finds Defendants’
21 argument to be without merit.

22 The U.S. Supreme Court has held that the Fifteenth Amendment includes “any election in
23 which *public issues are decided* or public officials selected.” *Terry v. Adams*, 345 U.S. 461, 468
24 (1953) (emphasis added). In this case, ascertaining the future political relationship of Guam to
the United States is a public issue that affects not just the Native Inhabitants of Guam but rather,

1 the entire people of Guam. Every Guam resident otherwise qualified to vote can claim a
2 profound interest in the outcome of the Plebiscite. The result of the Plebiscite will be transmitted
3 to the President and Congress, as well as to the United Nations. *See* 1 Guam Code Ann. §2105. It
4 is also very likely that the government of Guam and its political leaders will use the Plebiscite
5 result as the starting point in working towards achieving the “Native Inhabitants of Guam’s”
6 desired political relationship with the United States. The Ninth Circuit recognized the important
7 implications of the Plebiscite and noted that “[i]f the plebiscite is held, this would make it more
8 likely that Guam’s relationship to the United States would be altered to conform to that preferred
9 outcome, rather than one of the other options presented in the plebiscite, or remaining a
10 territory.” *Davis v. Guam*, 785 F.3d 1311, 1315 (9th Cir. 2015).

11 Accordingly, this court finds that the Plebiscite is an election that falls within the
12 meaning of the Fifteenth Amendment.

13 **b. Guam law on voter qualification for the Plebiscite violates the Fourteenth**
14 **Amendment’s Equal Protection Clause.**

15 The Fourteenth Amendment provides that no State shall “deny to any person within its
16 jurisdiction the equal protection of the laws.” U.S. CONST. AMEND. XIV. The Equal Protection
17 Clause of the Fourteenth Amendment applies to Guam. *See* 48 U.S.C. §1421b(u) (“The
18 following provisions of and amendments to the Constitution of the United States are hereby
19 extended to Guam . . . and shall have the same force and effect there as in the United States or in
20 any State of the United States: . . . the second sentence of section 1 of the fourteenth
21 amendment[.]”).

22 “[T]he Equal Protection Clause demands that racial classifications . . . be subjected to the
23 ‘most rigid scrutiny.’” *Loving v. Virginia*, 388 U.S. 1, 11 (1967). Judicial review must begin
24 from the position that “any official action that treats a person differently on account of his race or
ethnic origin is inherently suspect.” *Fisher v. University of Texas at Austin*, 133 S.Ct. 2411, 2419

1 (2013) (citations omitted). *See also Korematsu v. United States*, 323 U.S. 214, 216 (1944).

2 The law is well established that “a citizen has a constitutionally protected right to
3 participate in elections on an equal basis with other citizens in the jurisdiction.” *Dunn v.*
4 *Blumstein*, 405 U.S. 330, 336 (1972). Any racial classification will only be allowed if the
5 government proves “that the reasons . . . are clearly identified and unquestionably legitimate.”
6 *Fisher*, 133 S.Ct. at 2419 (internal quotes and brackets omitted). In other words, racial
7 classifications must be narrowly tailored to further compelling governmental interests. *Grutter v.*
8 *Bollinger*, 123 S.Ct. 2325, 326 (2003).

9 In this case, Plaintiff’s arguments are straight forward. First, Plaintiff alleges that Guam
10 “has never come close to articulating a compelling state interest to justify its discriminatory
11 voting scheme.” Pl.’s Mem., ECF No. 104, at 22. Plaintiff contends that Guam’s only reason for
12 the Plebiscite is that “only Chamorros should have the right to vote in the Plebiscite and
13 determine Guam’s future political status.” *Id.* at 23. Second, Plaintiff alleges that the
14 classification cannot survive strict scrutiny because “its method of achieving its goal is not
15 narrowly tailored.” *Id.* at 24. Guam has not “explained why no race-neutral alternative to
16 invoking the election machinery of the state could achieve its asserted goals.” *Id.* (emphasis in
17 original omitted).

18 Defendants, on the other hand, argue that the law is facially neutral, *i.e.*, the term
19 “Chamorro” is not even used in the Plebiscite law defining Native Inhabitants of Guam. *See*
20 *Defs.’ Opp’n.*, ECF No. 112 at 5-6. Therefore, Defendants argue that Plaintiff must prove
21 discriminatory purpose in order for strict scrutiny to apply. *Id.* at 5, 12-13. Defendants urge the
22 court to apply rational basis standard instead. *Id.* at 12-13, 19, 22-23. When reviewing statutes
23 that deny some residents the right to vote, rational basis does not apply. *See Kramer v. Union*
24 *Free School Dist. No. 15*, 395 U.S. 621, 627-28 (1969). However, even assuming that

1 discriminatory purpose is necessary under the Fourteenth Amendment in cases such as this—
2 where others are excluded and denied the right to register to vote—this court has already made a
3 finding that discriminatory purpose exists under the Fifteenth Amendment and therefore finds it
4 unnecessary to further discuss it under the Fourteenth Amendment.

5 In applying strict scrutiny, the court must carefully scrutinize whether each otherwise
6 qualified voter “has, as far as is possible, an equal voice” in the Plebiscite. *Kramer*, 395 U.S. at
7 627. In *Cipriano v. City of Houma*, the Supreme Court explained that “whether the statute
8 allegedly so limiting the franchise denies equal protection of the laws to those otherwise
9 qualified voters who are excluded *depends on whether all those excluded are in fact substantially*
10 *less interested or affected than those the statute includes.*” 395 U.S. 701, 704 (1969) (internal
11 quotes omitted) (emphasis added). Put simply, the racial classification must be narrowly tailored
12 so that the exclusion of otherwise qualified voters is necessary to achieve the articulated state
13 goal. *Kramer*, 395 U.S. at 632.

14 The Plebiscite statute “contains a classification which excludes otherwise qualified voters
15 who are as substantially affected and directly interested in the matter voted upon as are those
16 who are permitted to vote.” *Cipriano*, 395 U.S. at 706. All Guam voters have a direct interest and
17 will be substantially affected by any change to the island’s political status—whether it be for
18 statehood, wherein Guam will petition the United States to be admitted into statehood; or for
19 independence, wherein Guam will sever its ties with the United States; or for free association,
20 wherein Guam will be freely associated with the United States. As discussed *supra*, “[i]f the
21 plebiscite is held, this would make it more likely that Guam’s relationship to the United States
22 would be altered to conform to that preferred outcome[.]” *Davis*, 785 F.3d at 1315. This change
23 will affect not just the “Native Inhabitants of Guam,” but every single person residing on this
24 island. There is no evidence that all those excluded (the non-Native Inhabitants of Guam) are in

1 fact substantially *less* interested or affected than those the statute includes. *See Cipriano*, 395
2 U.S. at 704. Defendants have not shown that the exclusion of others is necessary to promote a
3 compelling state interest.

4 Defendants maintain that the Plebiscite should only be for the Native Inhabitants of
5 Guam because they are colonized people who have the right to self-determination. *See Defs.’*
6 *Opp’n.*, ECF No. 112, at 17-18. Defendants quoted *Akina v. Hawaii*, 141 F.Supp.3d 1106, 1132
7 (D. Haw. 2015), wherein in discussing strict scrutiny, the district court noted that the state of
8 Hawaii has “a compelling interest in bettering the conditions of its indigenous people and, in
9 doing so, providing dignity in simply allowing a starting point for a process of self-
10 determination.” *Id.* at 18-19. *Akina* involves an election organized by a non-profit corporation,
11 whose purpose was to support efforts to achieve Native Hawaiian self-determination. 141
12 F.Supp.3d at 1111-18. Qualified voters for said election must be a “qualified Native Hawaiian.”
13 *Id.* at 1111-12. Despite the district court making a finding that strict scrutiny would be met
14 because of the Hawaiian history and Hawaii’s trust relationship with Native Hawaiians, the court
15 found that the election did not violate the Equal Protection Clause, because there was no “state
16 action.” *Id.* at 1127-28, 1131.

17 This court will not entertain the strict scrutiny analysis provided in *Akina*, because *Akina*
18 is a district court decision that has not been reviewed by an appellate court and is non-binding to
19 this court. In addition, the instant case is distinguishable in that the Plebiscite statute was created
20 by the Guam Legislature, and the election is going to be conducted by the Guam Election
21 Commission (a Government of Guam entity) in an island-wide general election. *See Pub. Law*
22 *Nos. 25-106 and 27-106.* Unlike *Akina*, the Plebiscite is a government-sanctioned election.

23 Next, Defendants maintain that limiting the Plebiscite to the “Native Inhabitants of
24 Guam” would allow for the United States to uphold its “international obligations” to the native

1 inhabitants as colonized people.¹⁶ See Defs.’ Opp’n., ECF No. 112, at 17, 21. Defendants,
2 however, failed to provide this court with any legal authority—whether it be international law or
3 a binding international treaty or agreement—that allows for this court to disregard or circumvent
4 the U.S. Constitution and the laws of the United States, so that the Plebiscite can proceed despite
5 the racial classification.

6 The racial classification must fail strict scrutiny, because Defendants also have not shown
7 that the government’s method of achieving its goal is narrowly tailored. There are other
8 alternatives for the government to determine the desires of the colonized people, who have the
9 right to self-determination. For example, as discussed at the hearing, the government can
10 consider less restrictive means, such as conducting a poll with the assistance of the University of
11 Guam.

12 Accordingly, based on the discussion above, the court finds that the Plebiscite law
13 violates the Equal Protection Clause of the Fourteenth Amendment.

14 **c. The *Insular Cases* Doctrine is not applicable in this case.**

15 Defendants argue that “Plaintiff’s attempt to characterize his ability to vote in the
16 plebiscite as a ‘fundamental’ right is misguided from the start because the ‘right to vote’ does not
17 necessarily mean the same thing in an unincorporated territory as it does in a state, or other
18 integral part of the ‘United States,’” citing to the *Insular Cases*. Defs.’ Opp’n., ECF No. 112, at
19 19-23. The court finds Defendants’ argument to have no merit.

20 “The *Insular Cases* held that United States Constitution applies in full to incorporated
21 territories, but that elsewhere, absent congressional extension, only fundamental constitutional

22 ¹⁶ Defendants rely on authorities such as (1) the congressional reports surrounding the enactment of Guam’s Organic
23 Act, 1950 U.S.C.C.A.N. 2840, 2841; (2) the United Nations Resolution on “Plan of the Action for the Full
24 Implementation of the Declaration of the Granting of Independence on Colonial Countries and Peoples,” G.A. Res.
35/118, U.N. GAOR, 35th Sess., Supp. No. 48, at 21, U.N. Doc. A/RES/35/118 (1980); (3) *Murray v. Schooner
Charming Betsy*, 6 U.S. (2 Cranch) 64 (1804); and (4) the Restatement (Third) of Foreign Relations Law §114
(1987). See Defs.’ Opp’n., ECF No. 112, at 12-21.

1 rights apply in the territory.” *Davis*, 844 F.3d at 1095, citing *Wabot v. Villacrusis*, 958 F.2d
2 1450, 1459 (9th Cir. 1990), and *Boumediene v. Bush*, 553 U.S. 723, 756-57 (2008) (internal
3 quotation marks and brackets omitted). Congress has explicitly extended the Fifteenth
4 Amendment and the Equal Protection Clause of the Fourteenth Amendment to Guam when it
5 enacted the Organic Act of Guam. *See* 48 U.S.C. §1421b(u). Accordingly, Defendants’ use of the
6 *Insular Cases* doctrine to support their argument in this case fails.

7 **V. CONCLUSION**

8 The court recognizes the long history of colonization of this island and its people, and the
9 desire of those colonized to have their right to self-determination. However, the court must also
10 recognize the right of others who have made Guam their home. The U.S. Constitution does not
11 permit for the government to exclude otherwise qualified voters in participating in an election
12 where public issues are decided simply because those otherwise qualified voters do not have the
13 correct ancestry or bloodline. Having found that the classification is racial, this court finds that
14 the Plebiscite statute impermissibly imposes race-based restrictions on the voting rights of non-
15 Native Inhabitants of Guam, in violation of the Fifteenth Amendment.

16 Further, the court also finds that the Plebiscite statute violates the Fourteenth
17 Amendment.

18 Because the Fifteenth and Fourteenth Amendments are clearly violated in this case, the
19 court need not address the statutory arguments (Voting Rights Act and Organic Act of Guam)
20 that were raised by Plaintiff.

21 The court hereby **ORDERS** the following:

- 22 (1) Plaintiff’s Motion for Summary Judgment (ECF No. 103 and 104) is hereby
23 **GRANTED**.¹⁷

24 ¹⁷ All other pending motions in this case are hereby **MOOT**.

1 (2) Defendant's Motion for Summary Judgment (ECF No. 106) is hereby **DENIED** as
2 **MOOT.**¹⁸

3 (3) The court **PERMANENTLY ENJOINS** the Government of Guam and its officers,
4 employees, agents, and political subdivisions from enforcing the Political Status
5 Plebiscite (1 Guam Code Ann. § 2110) that specifically limits the voters to "Native
6 Inhabitants of Guam" as defined in 3 Guam Code Ann. §21001(e), and any laws and
7 regulations designed to enforce the Plebiscite law, insofar as such enforcement would
8 prevent or hinder Plaintiff and other qualified voters who are not Native Inhabitants of
9 Guam from registering for and voting in the Political Status Plebiscite.

10 (4) The Clerk is directed to enter judgment for Plaintiff.

11 **SO ORDERED.**



12 /s/ Frances M. Tydingco-Gatewood
13 Chief Judge
14 Dated: Mar 08, 2017

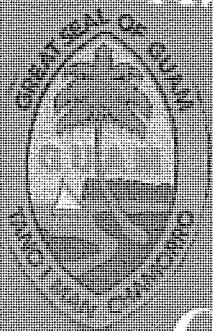
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¹⁸ Because Plaintiff's Motion Summary Judgment is granted, the court need not discuss Defendants' Motion for Summary Judgment.

Decolonization

*Through the
Self-Determination
of a People*

*An Overview
of Guam's
Status
and
Options*



Decolonization

Through the Self-Determination of a People: An Overview of Guam's Status and Options

The Road Ahead

In this information package we examine Guam's current status and an overview of Guam's political development under the United States. In addition to looking back at our island's history and where we are today, we also look forward toward the self-governing status options of Independence, Free Association and Statehood. A matrix that looks at a host of issues from the perspective of the Status Quo, Independence, Free Association and Statehood is intended to serve as a guide for what we should expect as a new status is implemented.

This information package is but the first of a larger program to raise

awareness, encourage discussion and promote an informed debate about which status option is best for Guam's future. The Commission on Decolonization's study of the economic impact of the status options will be also be published to give us a better understanding of how a self-governing status will affect our island's economic potential and our pocketbooks.

In looking to the road ahead, read, watch, listen. Prepare to become involved in the debate and the self-determination process that will shape the future of our island.

FAQs - Frequently Asked Questions

Why Change?

Change is occurring in Guam all the time. Our island's population is being changed by immigration. Our island's economic structure is being changed by the economic history makes. Technology has changed the world more rapidly in the past fifty years than at any time in human history.

We have little or no control over some aspects of change, such as world economies and technology. Other aspects of change that affect us, such as immigration, economic planning and land use, are critical to what Guam is and what Guam can be.

A self-governing status would give us the tools to manage many aspects of change that are now controlled by others. Rather than having others decide change for us, with the tools of a self-governing status we will be in a position to better manage our island and deal with the changes that are shaping our island's world.

Is the Status Quo Good Enough?

Guam is one of 16 remaining Non-Self-Governing Territories in the world. At one time there were over 100 internationally recognized colonial territories. In 1946 almost half of the world's population lived in a colonial territory. Today less than 1 million people live in colonies.

The status quo has brought Guam impediments and benefits. It has also brought continuing change to our island that we have no voice in shaping. Under the status quo Guam's future will continue to be shaped not by Guam's interests but by what others want from Guam. Is it good enough for our children and grandchildren that our future is being shaped by others? Where are our voices to be heard in Guam's future?

Which Status Is Best For Guam?

A change from a non-self-governing to a self-governing status will give all those who make Guam their home a voice in the affairs of Guam. Each status option - Independence, Free Association, Statehood - would affect our voice in different ways. Each option would affect our island in different ways. It is up to each of us to be informed about the options and to make up our own minds about which status is best for Guam.

What Happens After The Vote?

A self-determination vote is the beginning of the decolonization process. No matter what option is selected, a Commission to support the status that is selected will have to be put in place and Guam's status as a Non-Self-Governing territory.

The colonial status of Guam is one that all who reside in Guam have had to participate in. The United States, as colonial administrator, does not have a responsibility to maintain our rights and political rights. It is not likely to support us and to Guam's Non-Self-Governing status unless a viable, internationally-recognized legal right to all has been adopted by Guam residents.

What Is Guam's Current Legal Status?

Unincorporated Territory - A designation given by the U.S. Supreme Court in 1901 to islands taken during the Spanish-American War. Unincorporated territories are possessions of the United States but not a part of the United States. Guam was declared an unincorporated territory in the Organic Act of 1950.

Non-Self-Governing Territory - A designation given to colonial possessions which were awarded the promise of full self-government in accordance with the anti-colonial framework of the United Nations' Charter. Chapter XI of the UN Charter is devoted to the rights and responsibilities related to such territories. Guam was included on the United Nations' list of territories by the United States in 1946.

What Is Colonialism?

a. control by one power over a dependent area or people.
b. a policy advocating or based on such control.
(Webster's Dictionary)

The process and continuation of colonialism is dependent on one government, or group of people, imposing on another government, or group of people, the rules under which they live. The exercise of external control over a dependent area or people usually affects both the people of the area and their resources, which the colonial power seeks to use or exploit.

The exercise of colonial power over a people is considered a violation of the basic human rights of a people to make their own decisions about how they are governed, and how their natural resources are used.

What Is Decolonization?

Decolonization is the movement of a colony from a dependent status to a self-governing status. The colonial people's expression of their desire for a decolonized status is usually evidenced through a process of self-determination.

What Is Self-Determination?

Self-Determination is the process by which the people of a colonial territory express their desire for a self-governing status. The expression of their desire for a decolonized status forms the basis of administrative actions to implement a self-

governing status. The expression of the attainment of self-determination is international law comes from the process of decolonization. (1) the alteration of a people's rights by self-governing and (2) the right to be free from administrative control that is not theirs.

Why the Chamorro People?

In the proposed decolonization of a self-governing people who have the right to self-determination, the decolonized people are the "self" in self-determination.

In Guam's case "the people" is clearly understood through the identification of "native inhabitants" in the Treaty of Paris (Article IX). These "people" were subsequently those who received U.S. citizenship under the Organic Act of 1950.

In international law, "the people of the territory" is understood to be those who would form a nation in the absence of colonialism. That it understood by the signature percentage of (1) "the people" for themselves "the colonial people" of a territory and (2) "settled" and "ingrained."

Self-Governing (Decolonized) Status Options

The attainment of a self-governing status is evidenced when a colony's status has been changed and that change provides for the former colony to be either (1) an independent sovereign, (2) an equally integrated part of another country (e.g. Statehood in U.S. system), or (3) an associated state sharing its sovereignty with another country. While these statuses are common options, they have been the international basis for evaluating whether a territory has attained full self-government in accordance with the United Nations Charter. The United States was the principal proponent of these status options being adopted in U.N. General Assembly Resolution 1541 (1960).

Guam Is Unique

There are some things that a new political status will not change. Guam's geographically strategic location, the infrastructure that we have developed, the interest of others in Guam, our expectations about our future and our children's future are all things that are not going to simply disappear.

Guam has a distinct personality. Unlike Guam is very different from other American territories like American Samoa or the U.S. Virgin Islands.

Similarly one would not expect that an independent Guam will be like the Philippines or Taiwan, which were once U.S. territories and are now independent. Neither would one expect that Guam will be like the Federated States of Micronesia or the Marshall Islands if we choose Free Association. Nor would the State of Guam be like the State of California.

Guam is unique and unique place. A self-governing status will allow us to shape what we face in the way that we believe is best for our future.

This is not new. For over a century the people of Guam have sought to improve their political and economic status with the United States.

Before the establishment of the colonial administration of the United States, one of the first who tried to give voice to the stirrings of political consciousness was Joaquin Perez, who made an effort to establish an independent Legislature (1899).

Several more moderate attempts were made through the 1920s and 30s, with an emphasis on limiting the power of the U.S. Naval Governor. The push for home rule after WWII was aided by the U.S.'s promotion of the right to decolonization for colonial peoples — a right which was included in the United Nations' Charter. In Guam, efforts for more home rule were realized with the election of a Legislature following the Organic Act of 1950; the lifting of the military's Security Clearance program in 1962; and the Elective Governor Act of 1970.

In the early 1970s, Guam's leaders discussed political status, but in 1976 the U.S. government instead authorized a Guam Constitution. In 1979 Guam voters rejected a proposed constitution primarily because it did not change Guam's political status. A plebiscite on political status options in 1982 led to a draft Commonwealth Act in 1987. Ten years of unsuccessful discussion and negotiation with Washington (1988-1997) on the issues of concern to Guam made it clear that Commonwealth status for Guam was not going to be realized.

In Article 1 of the draft Commonwealth Act, the ultimate right to self-determination by the Chamorro people of Guam was recognized, and was to be exercised according to provisions to be contained in the Commonwealth's Constitution. Thus, the Commonwealth Act called on the U.S. to also recognize the rights of Guam's colonized people. In view of the unsuccessful efforts to gain passage of the Commonwealth Act, the Commission on Decolonization was

created under Guam P.L. 23-147 (1997). The Commission was established to give the colonized people the opportunity to exercise their right to self-determination and select a self-governing political status for their island homeland.

Guam's Current Status

Guam's colonial status is clear in the legal standards and the practices that flow from the United States' relationship with Guam. The "internal" U.S. legal standards and the "external" international standards both identify Guam as being non-self-governing. Guam is not only a colony in legal terms, but also in the way in which the U.S. administers Guam.

"Internal" (U.S.) Legal Standards

The "internal" (U.S.) legal standard that applies to Guam is the status of "unincorporated territory." This status in U.S. law was created by the U.S. Supreme Court (*Insular Cases*, beginning 1901, See *Bidwell v. DeLima* and *Downes v. Bidwell*) specifically for those islands that were ceded to the United States at the end of the Spanish-American War (1898).

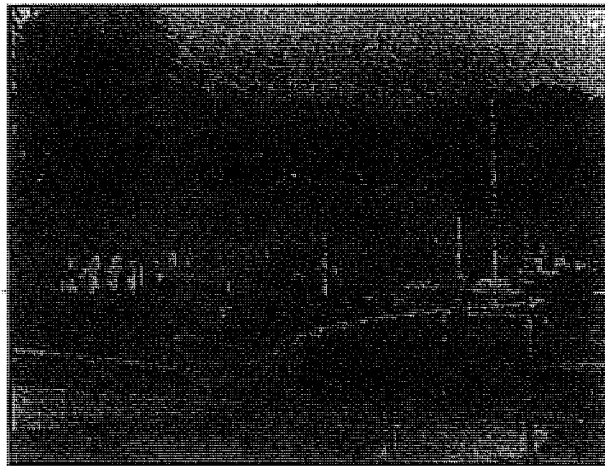
The "Territories Clause" of the U.S. Constitution provides,

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory and other property belonging to the United States. (U.S. Constitution Article 4, Section 3, Clause 2)

The provisions of the Treaty of Paris provide,

The civil rights and political status of the native inhabitants of the islands hereby ceded to the United States shall be determined by the Congress. (Article IX, 1898)

Based on the above, the U.S. Supreme Court found that former Spanish



Government House and the Governor's Palace, 1940. (Photo courtesy of the R.F. Taitano Micronesian Area Research Center)

territories, (unlike earlier territories which had been acquired by the United States), were not promised to become a part of the United States. Where the U.S. Constitution had been the standard of governance in earlier acquisitions (later called "incorporated territories"), Congress, not the Constitution, was the guide for governance in the island territories. The creation of the status of "unincorporated territory" provided for one-sided colonial governance. As the United States considered the extension of civil government to Guam, along with limited U.S. citizenship, a Congressional report openly stated the colonial nature of the relationship

Guam is appurtenant to the United States and belongs to the United States but is not a part of the United States. (H.R. No. 1365, 81st Congress., 1st Sess. 8 (1949))

The 1950 Organic Act of Guam provided for a civilian appointed Governor (elected Governor, 1970), an

elected Legislature, and a judicial branch. The Organic Act also provided for U.S. citizenship to those "native inhabitants" who traced their ancestry to the Treaty of Peace between the U.S. and Spain by granting citizenship the U.S. Government established the mechanism to claim title to over 1/3 of the real property in Guam. Also, for the first time in U.S. law, Guam was declared an "unincorporated territory" of the United States (Organic Act, Section 3).

The legacy of Guam's status as a possession of the United States has been repeated time and again in judicial reviews of the applicability of U.S. legal standards to Guam.

Guam marches squarely to the beat of the federal drummer; the federal government bestows on Guam its powers and, unlike the states, which retain their sovereignty by virtue of the Constitution, Guam's sovereignty is entirely a creation of federal statute. (*Ngiraingas v.*

Decolonization: An overview of Guam's Status and Options

<p>“Congress has granted [Guam] far fewer powers of self government than the State of Colorado has granted the City of Boulder.” -9th Circuit Court</p>	<p><i>Sanchez</i>, 858 F.2d 1368, CA9 1988, <i>aff'd</i> U.S. Supreme Court on other grounds) Congress has granted [Guam] far fewer powers of self government than the State of Colorado has granted the City of Boulder. (<i>Sakamoto v. Duty Free Shoppers</i>, 9th Circuit Court). After over a century of American colonial rule, the structure of the legal relationship between Guam and the United States remains unchanged. Guam is an “unincorporated territory” subject to the plenary authority of the U.S. government.</p>	<p>External (International) Legal Standards The United Nations is a Treaty of Nations. Article VI, Clause 2 of the U.S. Constitution says that “all treaties made...shall be the supreme Law of the Land.” Guam was voluntarily inscribed by the United States on the United Nations list of Non-Self-Governing Territories (NSGT)s in 1946 and became Guam's administering power (U.N.G.A. Resolution 66-1). Today Guam remains one (1) of 16 territories that have yet to attain full self-government.</p>	<p>U.N. CHARTER The basis of the rights of the people of a NSGT can be traced to Article 73 of the United Nations Charter. Members of the United Nations which assume responsibility for the administration of territories whose people have not yet attained a full measure of self-government recognize [...] the principal that the interests of the inhabitants of these territories is paramount. (Article 73) In accordance with the Charter at Article 73, administering Powers accept(ed) as a sacred trust the</p>
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Fundamental Assumptions:

For the purposes of comparing and contrasting the existing status quo with the prospective conditions under each of the three political status options under consideration, it must be assumed, 1) that Guam drafts and adopts a constitution by

general referendum after one of the status options is selected by plebiscite, and 2) that a basic system of laws reflecting new political and economic relationships is prepared for implementation immediately after the transition to the new status is accomplished.

	Immigration	Citizenship
STATUS QUO	U.S. control; point of entry for immigration, habitual residents; U.S. decides conditions on entry; U.S. rejects Guam requests for limits on immigration; systematic influx of immigrants from Asia and habitual residents continues; moderately liberal H-visa program; unrestricted access to U.S. labor market	U.S., as provided by statute, with economic and political benefits at the discretion of the U.S. government; little meaningful congressional representation; legal tiers of citizenship exist between native born, naturalized (both constitutional) and Chamorro (statutory) U.S. citizenship
INDEPENDENCE	Guam controls; not a U.S. point of entry; habitual residents subject to an income means test; immigration offers tied to commercial investment and other economic benefits to Guam; entry of U.S. and U.S.-associated citizens negotiated with impact aid from U.S. if they are admitted; few social or economic benefits for short-term immigrants; free emigration to U.S. for U.S. citizens; liberal B-, H- and L-type visa program; moderate-to-high risk of labor emigration during the early years, especially among settler and immigrant populations; somewhat restricted access to U.S. labor market.	One of the key levers manipulated by U.S. to secure a better negotiating position, as there is ambiguity on the subject; citizenship is assumed to be Guam; current U.S. citizens may be allowed dual citizenship (provided that the U.S. is willing to recognize that current U.S. citizens have a status of residing in a foreign country, and to build upon the European model under Maastricht, the U.S.-Israel model and the proposed U.S. Puerto Rico model); U.S. citizenship for future generations is unlikely regardless of jus sanguinis, and U.S. citizenship for non-U.S. citizens of Guam at cutover is unlikely; Guam citizenship is possible in exchange for commercial investment or other activity of economic benefit to Guam; Guam and U.S. exchange diplomatic representatives at the State Department level, enabling cooperative resolutions in most areas of contention
FREE ASSOCIATION	U.S. control unlikely; Guam controls driven by local decision-making process based upon needs and economic benefits; not a U.S. point of entry; U.S. habitual residents unlikely; U.S. security concerns accommodated; free entry of U.S. and U.S.-associated citizens probable, but with few social or economic benefits for short-term residents; free emigration to U.S. for U.S. citizens; liberal B-, H- and possibly L-type visa program; moderate risk of labor emigration during early years; minimal to no restrictions on access to U.S. labor market.	One of the key levers manipulated by U.S. to secure a better negotiating position, as there is flexibility on the subject and the nature of citizenship for Chamorros, just as with Puerto Ricans and Panamanians; U.S. and Guam dual citizenship is assumed for those with existing rights at the time of the status transition; U.S. citizenship for future generations is possible if not likely under jus sanguinis, but U.S. citizenship for non-U.S. citizens of Guam at cutover is unlikely; Guam and U.S. exchange diplomatic representatives with U.S. at State Dept level enabling easy resolution of most matters, including economic cooperation; annual funding of negotiated federal aid programs; economic and political benefits will be negotiated.
STATEHOOD	U.S. control; point of entry for immigration, habitual residents; entry consistent with uniform application of U.S. immigration law; moderately restrictive H-visa program; integration into U.S. labor market	U.S., with uniform economic and political benefits of member States of the Union.



President Truman signs the Organic Act of Guam in 1950. The Act extended U.S. citizenship to Chamorros and established Guam's status as an "unincorporated territory." (Photo courtesy of the R.F. Taitano Micronesian Area Research Center)

obligation to promote to the utmost...the well-being of the inhabitants of the[se] territories, and to this end:

(a) to ensure with due respect for the culture of the peoples concerned, their political economic, social and educational advancement, their just treatment and protection against abuses;

(b) to develop self-government, to take due account of the political aspirations of the people...

(c) to promote constructive measures of development...

government were bolstered by the General Assembly's call for more specific factors to guide administering Powers (and Member States) in determining if a territory had achieved self-governance (U.N.G.A. Resolutions 567 (VI) and 648 (VII), 1952 and 742 (VIII), 1953). The process of self-government was elaborated on and clarified by attaching the principle of self-determination to the process of attaining full self-government. (U.N.G.A. Resolutions 1514, 1541 (XV), 1960).

These resolutions created the framework for the customary practice for NSGT's to achieve a fully self-governing status through the process of self-determination. Independence, the most obvious evidence of decolonization, was not the only form of self-government identified. The full integration of a

DEVELOPMENT OF STANDARDS

Administering Power's support for these positive steps to provide for full self-

	Land	Defense	Individual Rights
STATUS QUO	Secure title to private property; federal landholdings withheld, with the turnover of identified excess properties unilaterally delayed for an extended period and at the convenience of the U.S.; there is a trend toward the return of some lands, but with counterbalancing increased U.S. interest in Guam land for wildlife preservation; the Chamorro land trust exists under Guam law.	U.S. authority; deterrence is the primary objective; moderate but declining industrial impact; the basic driver of U.S. policy in Guam is the military leadership; change in local impact of defense policy and strategy occurring as a result of unpredictable national policy decisions, an area in which local impact is largely irrelevant.	Protected, with most rights of U.S. except voting; rights of the indigenous group are indistinguishable from population at-large.
INDEPENDENCE	Chamorro property rights will come first, with probable limitations on land alienation to non-Guam citizens or non-indigenous persons for public and released U.S. federal lands; Guam leases bases to the U.S. for a combination of monetary fair market value and long term economic development aid; foreign investment in land will be significantly influenced by confidence in juridical system.	Guam takes part in a regional defense pact led by U.S.; Guam is mainly responsible for local National Guard, Coast Guard operations, and providing limited land for military bases; U.S. technical and financial assistance to improve defense capabilities and to closely align Guam and U.S. military forces; U.S. sponsors Guam's participation in bi- and multilateral pacts for regional defense; moderate-to-high industrial impact depending on the U.S. view of the Asian region and Guam's acceptance of U.S. military presence as it relates to other nations in region.	Rights protected in Guam constitution reinforced by acceptance of international standards of individual human rights and history of association with the United States; deferential benefits to individuals in indigenous group likely to be affirmed.
FREE ASSOCIATION	Secure title to private property; possible restrictions on transfer of government and released U.S. federal land to those who are neither Guam nationals nor indigenous; constitution to define land tenure for foreign nationals and commercial interests; federal landholdings reduced to a more reasonable level; U.S. military bases possibly leased at fair market rates, but more likely under a negotiated agreement in exchange for economic development and defense aid; as more land is requested by U.S., more aid is received by Guam as substitute for fair market exchange; foreign land ownership allowed, with some restriction on use and sale of government lands to non-citizens; likely prohibition on ownership of land by foreign governments under agreement with U.S.; tax incentives for private development of land spurs local and international investment, increasing the economic value of land in the medium term.	U.S. responsibility; this is the primary U.S. interest in Guam and a defining part of the relationship; U.S. dominance in the region is the primary objective; but ongoing U.S. military investment in Guam will be directly related to U.S. interests in deployment; U.S. retains the right to limit foreign access to Guam in case of a military emergency in exchange for economic aid over the long-term; bilateral and multilateral pacts are possible; local influence of U.S. military leadership fluctuates indirectly to the performance of Guam's other economic sectors.	Rights protected in Guam Constitution likely to be substantially similar to U.S. model, reinforced by close association with the U.S. and acceptance of international standards of individual human rights; deferential benefits to indigenous group likely to be affirmed.
STATEHOOD	Secure title to private property; federal landholdings and policies toward land are maintained, but their economic effect may be mitigated by increased political power in the U.S. system; U.S. recognition of the Chamorro Land Trust is likely.	U.S. responsible; fortification likely; higher industrial impact; the political influence of the military leadership is reduced by accountability to Guam's representatives in the U.S. Congress, leading to a more consistent application in Guam of military policies and strategy.	Strongly protected, with all rights of U.S. including voting; rights of the indigenous group are indistinguishable from population at-large.

Territory into the political system of an administering Power was also a form of full self-government — when the people and the Territory have equal standing with other jurisdictions of the administering Power.

Somewhere between independence and integration - between full sovereignty and integrated sovereignty - is the equal status of shared sovereignty or "free association."

As the process of administering Power oversight of Non-Self-Governing Territories continued into the second, third and fourth decade of the United Nations, the encouragement to administering Powers at times took on the direct approach of reminding administering Powers what they should and should not do. These explicit references to the responsibilities of an administering Power appear to have resulted from the slow rate of compliance by an administering Power, with the commonly understood anti-colonial framework of the Charter.

Administering Powers had an obligation to treat the non-self-governing Territory of Guam in a way that promoted economic development, and increasingly the General Assembly adopted language that called for the protection of the permanent sovereignty of territories over their land and resources.

The General Assembly repeatedly discouraged migrant and settler populations being permitted into Territories, and called for the preservation of "the cultural identity," as well as the "national unity" of Territories. The General Assembly's actions with respect to providing both affirmative and negative guidelines to administering Powers speaks directly to the role which administering Powers have in the process of a Territory's movement to full self-governance.

WHY THE CHAMORRO PEOPLE?

As the scrutiny of the process of the decolonization became more directed by the United Nations (beginning with Resolution 1514 and 1541), "the people" of NSGT's became known as "colonial peoples" and peoples under "colonial and alien domination." This characterization of the peoples of NSGT's make it even more clear that "the people" were those who were in fact colonized.

Settlers or migrant populations in

The United Nations is a Treaty of Nations. Article VI, Clause 2 of the U.S. Constitution says that "all treaties made ... shall be the supreme Law of the Land."



NSGT's allowed there by administering Powers were seen to have a distinct personality that was separate from "the people of the Territory."

Beginning with the inscription of a territory on the list of NSGT's, "the people" or "inhabitants" as used in the Charter has meaning. As noted by the by the Special Rapporteur of the Subcommission on the Prevention of Discrimination and Protection of Minorities, for the purposes of self-determination, the term "people" should apply to:

...peoples occupying a geographical area which, in the absence of foreign domination, would have formed an independent state. (1981)

Generally, this principle created a distinction between immigrants and

	Protection of Rights	Cultural	Health
STATUS QUO	Stable system, although rights generally available in the U.S. are selectively applied: rights of Chamorros are largely indistinguishable from the population at-large; the U.S. is, historically, unresponsive to Guam's call for recognition of Chamorro rights.	Liberal acceptance of multicultural backgrounds, with a tendency toward assimilation of outside cultural traits that has resulted in the gradual displacement of Chamorro cultural dominance.	Fairly equal application of health care grants and technical assistance as in most states; Guam not included in all new initiatives until information trickles in; on-site advisors discontinued nearly 10 years ago, putting Guam further out of touch; regional health organization participation (WHO, SPC etc) limited on rotating basis with other U.S. territories; health-related welfare programs limited by capped amounts (Medicaid, Food Stamps, AFDC).
INDEPENDENCE	Guam's constitution and laws are anticipated to be consistent with the Universal Declaration of Human Rights, perhaps modeled after those of the U.S.; constitutional preferences for Chamorros (e.g. government jobs, land tenure, economic development programs) are likely; Guam does not abridge the rights of any guest resident or visitor, instead conveying an ongoing feeling of welcome.	Chamorro cultural and language resurgence, with possibility of mandated use of Chamorro for government activities, but U.S. English remains the language of instruction; continued open acceptance of other cultures, particularly for those who contribute significantly to the economy of Guam.	Discontinuation of formal direct U.S. health program funding thru grants; assistance possible thru foreign aid directly or via international organizations: as health is a high international priority, the U.S. will likely make every effort to maintain a base line level of health care services; technical assistance much more complicated thru international organizations, although international assistance now readily accessible.
FREE ASSOCIATION	Guam's constitution and laws are very close to the U.S. model, but there are some constitutional provisions for Chamorro preferences (e.g., government jobs); Guam does not abridge the rights of any guest resident or visitor, instead conveying an ongoing feeling of welcome.	Stronger manifestations of Chamorro culture, but generally very liberal and open acceptance; U.S. language remains as the common means of communication, reflecting close ties to U.S., but Chamorro language is in ascendancy.	Continued application of most major health programs likely as a negotiated item; also likely to continue and possibly elevate in status as the health care center for Micronesia; full participation in all international health organizations and aid programs.
STATEHOOD	Stable Constitution, universally applied; rights of Chamorros are largely indistinguishable from the population at large, with indigenous rights issues problematic.	Liberal acceptance of multicultural backgrounds, with an understanding and acceptance of the assimilation and displacement of Chamorro cultural dominance.	Application of all health programs/grants and technical assistance; likely that discontinued participation in any international health organization; information relayed through Federal channels, i.e., State Department/CDC to States; delay or absence of information on regional health trends could compromise preventative efforts.

Decolonization -- An overview of Guam's Status and Options



The return of land no longer used by the military has been pushed since the First Guam Legislature, in the draft Commonwealth Act and by original landowners. Ownership of land is a defining element of Guam's political status and economic development.

settlers and the people or colonized peoples. In specific cases, the United Nations has weighed in to establish the rights of the people in a particular Territory. The latest example is the identification and registration of the legitimate people of Western Sahara, who are eligible to vote in a plebiscite on that Territory's status (U.N. Security Council Resolutions, 1997-99).

From its first reports to the United Nations, the United States clearly understood that the people of Guam were the Chamorro people. In the late 1940s and 1950s, U.S. reports to the U.N. did not identify military personnel, white civil servants or other immigrants as part of the people of Guam.

Even in the 1960s, when questioned at the U.N. about military personnel

stationed in Guam, U.S. representatives made a point that they did not participate in Guam politics. The role of immigrants from Asian countries was similarly disregarded by U.S. representatives as having any effect on Guam's government.

Migration policies of colonial powers have long been seen as a traditional practice of colonial control; either to assume control over the peoples of colonial territories, or to assimilate their populations. International standards in opposition to migration as an instrument of colonialism was made even more clear by the U.N. Plan of Action for the Implementation of the Declaration (on Decolonization, U.N.G.A. Res. 35/118) in 1980 which noted:

8. Member States shall adopt the necessary measures to discourage or

	Legal and Judicial Framework	Education
STATUS QUO	Guam legal rights guaranteed by Organic Act and Guam Code, and limited protections under U.S. Constitution; legal rights generally follow U.S., with a few exceptions; standard guarantees of individual protection against abuses by government; Organic Act incorporates Bill of Rights, except grand jury indictment and civil trial by jury; Article 1, section 9, clauses 2 and 3, ensure habeas corpus and no bill of attainder, prohibit ex post facto law, and law impairing obligations under contracts; Article IV extends to Guam the relation of States to each other, including the full faith and credit clause and privileges and immunities clause of citizens of the various States; Guam's judicial/ legal system is an established system of jurisprudence based on precedents of U.S. law; relatively stable legal and economic climate; Court system generally patterned after other U.S. jurisdictions, except Ninth Circuit Court of Appeals, rather than the U.S. Supreme Court, has appellate jurisdiction over decisions of the U.S. District Court of Guam.	Poorly funded due to fiscal constraints on GovGuam and turnover of immigrant children in school system; DODEA has established a two-class public educational system; costs of public education unusually high due to multilingual, multicultural background of student population; significant federal support of non-DoD programs; Dept of Education grants and student financial aid programs.
INDEPENDENCE	Legal rights negotiated, but subject to Guam constitution and laws; legal and economic stability at least temporarily affected, even if legal structure is maintained; economy adversely affected if legal stability and the protection of economic rights are removed or significantly altered.	Continuation of existing standards with large resource allocation directed to long-term residents; negotiated level of U.S. federal education grants and student financial aid programs lower than status quo; local school system empowered to develop locally/regionally relevant curriculum; international standards applicable; DODEA continues under U.S. standards.
FREE ASSOCIATION	Legal rights partially negotiated, generally controlled by Guam constitution and laws; Guam could either reenact existing laws or create an entirely new code and constitution different from the status quo; legal and economic stability potentially affected temporarily, even if legal structure is maintained; economy could be adversely affected if legal stability or protection of economic rights are significantly altered; major change in the current judicial structure of the island unlikely, except recourse to U.S. federal courts; federal funding of the judiciary subject to negotiation.	Continuation of existing educational standards, with resource allocation directed toward long-term residents; negotiated level of U.S. federal education grants and student financial aid programs (likely lower than status quo); DODEA continues under U.S. standards; local school system empowered to develop locally/regionally relevant curriculum; U.S. (and other) accreditation standards applicable.
STATEHOOD	Legal rights same as status quo, except enhanced by adoption of entire U.S. Constitution; Guam Code Annotated has provisions respecting business and the economy, with U.S. federal oversight; contracts clause in Article 1 of U.S. Constitution, the takings clause of the 5th Amendment, civil procedure, remedies, business regulation, real property law, business structure and function, Uniform Commercial Code and Uniform Consumer Credit Code all apply; legal stability and the protection of economic rights; any major change in the current judicial structure of the island unlikely, except a slight change in role played by Ninth Circuit Court of Appeals relative to Supreme Court of Guam; U.S. federal funding assistance to Guam Courts continues.	Likely to adopt state-level property taxes to fund education; adoption of U.S. performance standards and higher federal education grants; reintegration of DODEA schools and establishment of uniform U.S. standards; costs of public education high due to multilingual, multicultural background of student population; educational grants, student financial aid from U.S. increases because of influence of voting representatives in U.S. Congress.

“Members of the United Nations which assume responsibility for the administration of territories whose people have not yet attained a full measure of self-government recognize [...] the principle that the interests of the inhabitants of these territories is paramount.” (United Nations Charter, Article 73)

prevent the systematic influx of outside immigrants and settlers into Territories under colonial domination, which disrupts the demographic composition of the those Territories and may constitute a major obstacle to the genuine exercise of self-determination...by the people of those Territories.

Clearly a distinction has been made between "outside immigrants and settlers" and the "exercise of self-determination ... by the people" of NSGT's. Consistent with this distinction, the General Assembly has annually adopted resolutions regarding the responsibility of Member States with respect to the "permanent sovereignty of the people of the Non-Self-Governing Territories over their natural resources..."

Since Guam's inclusion on the list of NSGTs, the U.S. has made no effort to remove Guam based on the attainment of self-government. Not at the time of the Organic Act, elected governor, or at any other time has the U.S. asked for Guam to be removed from the list of NSGTs. Over the period of time which Guam's self-governance has been denied, international law has become more specific with respect to the rights of the people of NSGT's (International Court of Justice cases, *Western Sahara, Namibia*).

General Assembly resolutions on Guam have also become more specific, reflecting the views of Guam and the concerns raised by representatives of Guam about the conduct of the United States. Guam remains one of the 16 territories on the United Nations list.

	Travel	Affirmations	Foreign Affairs
STATUS QUO	Relatively unrestricted	The U.S. has unilateral rights, with liberal application at the moment: Guam's agenda in general has had few applications in past practice, nor has it been regularly applied throughout most of Guam's economic and political development; U.S. policy oversight is bureaucratic, with a shifting set of national political agendas; petitions from Guam to respond to Guam's agenda are largely ignored; there is delegation of authority in areas such as local legislation, customs, tax collections; Guam has no inherent right to govern itself.	Official representation by the U.S. in all international political forums and for all international treaties; Guam's interests and agenda have little impact on U.S. policy positions or negotiations; calls by Guam for inclusion in organizations (e.g., APEC) and instruments (e.g., tax treaties) are largely denied or ignored; Guam's personality is represented through observer status in some international forums (SPC, ESCAP) and in the Olympics.
INDEPENDENCE	Mostly unrestricted; visa access to U.S. for all except U.S. citizens (who travel to U.S. without visas), but liberal visa administration; totally unrestricted for Guam citizens' international travel with appropriate visas, no requirement to adhere to U.S. foreign travel restrictions.	Unilateral decisions by Guam are affected primarily by desires of the local populace; there is less relative concern for the U.S. agenda, except in areas of dependency and mutually beneficial cooperation, which are almost exclusively related to defense and historical ties of friendship (i.e., many economic ties are primarily driven by Guam's preferences for U.S. goods); more harmonious relations with the U.S., as affirmations are based on mutual respect and mutually agreed sovereign ties.	Guam provides its own international representation; Guam and U.S. exchange diplomatic representatives, enabling economic cooperation and easy resolution of most matters; U.S. political relationships and agenda are of little relevance, except mutual issues of security; key relationships are state-to-state, with emphasis on U.S. and Asia-Pacific nations; new economic, political alliances forged within limits of mutual defense pact; potential for new investment and additional sources of economic growth through negotiations with Asia-Pacific governments; Guam has UN membership.
FREE ASSOCIATION	Relatively unrestricted travel to U.S. as there is no visa requirement because of U.S. citizenship; completely unrestricted for Guam citizens' international travel with appropriate visas, since there is no requirement to adhere to U.S. foreign travel restrictions	Association can end by unilateral decision of either U.S. or Guam, but this is unlikely on either side; however, there are unilateral decisions by Guam in all other contentious matters except defense and areas of mutual cooperation; Guam agrees to primacy of U.S. military interests, enabling U.S. to deny access for national security, with significant U.S. economic development aid provided in exchange for this concession; there are few areas of contention as the U.S. freely accepts Guam's political status and Guam freely accepts the continuation of U.S. policy in many significant areas.	Guam, U.S. exchange representatives at State Department level, enabling resolution of most economic cooperation matters; U.S. handles significant affairs of state for Guam while Guam maintains separate personality and economic consulate in a few key countries; Guam enters bilateral trade negotiations and international/regional organizations where desired, but defers to U.S. on many issues because U.S. can leverage more in negotiations; closer affiliation for mutual benefit with other U.S.-affiliated Chamorro and Micronesian states is likely over time; UN membership.
STATEHOOD	Relatively unrestricted	State's rights with Guam agenda represented by two U.S. Senators and one U.S. Congress Representative; U.S. federal powers are defined by the uniform application of the U.S. Constitution; mutual consent has the meaning applied in U.S. Constitution.	Official representation by the U.S. in all international political forums and for all international treaties; access with limited status in some international forums (SPC, etc.); however, Guam's agenda is more important in formulating U.S. policy positions and negotiations due to the representation of Guam by voting members in the U.S. Congress.

Political Aspirations and a Brief History of Guam's Status Initiatives

It did not take long for Guam's Chamorros to appreciate the American system of democracy, and to desire a greater degree of self-government than was provided under Guam's early naval government. Petitions for citizenship - an effort to limit naval authority over Guam - began in 1902. In response to the continuing expression of Guam's peoples desires, the First Guam Congress was established (1917-30) to serve as an advisory group between the Chamorro population and the military administrators.

The Second Guam Congress was formed in 1931. This body played much

the same role as its predecessors, but was better organized. In 1936, they supported a long and arduous trip to Washington, D.C. by B.J. Bordallo and EB. Leon Guerrero. Their purpose was to petition the Congress for U.S. citizenship, and an improved political status for the people of the island.

Although citizenship had been given to Puerto Ricans (1917) and Virgin Islanders (1927) that was not to be the case for Chamorros whose efforts were cut short by the Japanese occupation during World War II (1941-44).

After the War, it took little time for the Chamorros of Guam to resume their efforts toward greater internal political authority. Ironically, it was the federal government's desire to acquire land in Guam for its military operations, as well as

the anti-colonial position of the U.S. at the newly formed United Nations, that forced the issue of citizenship for the Chamorros.

The 1950 Organic Act of Guam was an important event in the political history of the Chamorro people because it enhanced the status of individuals and provided a modest degree of internal self-government. However that same federal document applied the title "unincorporated territory" to Guam for the first time.

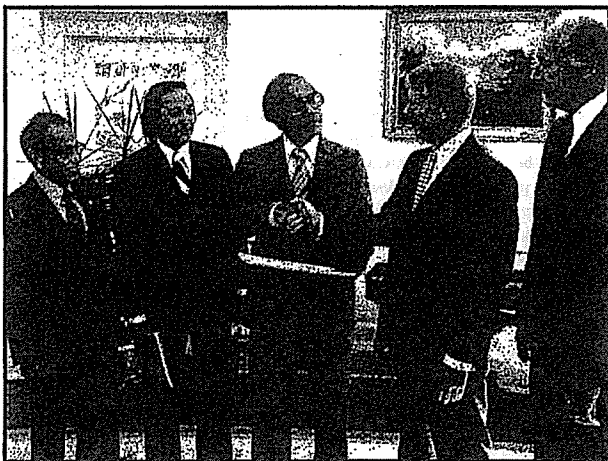
While the Organic Act represented an advancement toward internal political authority for the civilian inhabitants of Guam, the people wanted more.

In 1960, President Eisenhower appointed the first Chamorro Governor of Guam. This was a meaningful, albeit

token, gesture acknowledging Chamorro rights to the civilian governance of the island. In 1968, Congress responded to Guam's push for an elected chief executive and passed the Elective Governor Act. It provided the people of Guam the ability to elect their own executive leadership for the first time since Spanish colonization began, some 300 years before.

In the early 1970s, with rising standards of living and new pressures from immigration, the discussion of political status began. Status Commissions in the 13th 14th and 15th Guam Legislatures looked at Guam's potential and the limits put on Guam by federal laws. In 1976, in response to Guam's concerns, Congress allowed for Guam to adopt a Constitution, but limited the issues that Guam could address in its Constitution.

“Status Commissions in the 13th 14th and 15th Guam Legislatures looked at Guam’s potential and the limits put on Guam by federal laws. In 1976, in response to Guam’s concerns, Congress allowed for Guam to adopt a Constitution, but limited the issues that Guam could address in its Constitution.”



The draft Guam Constitution being presented by Guam leaders to President Jimmy Carter. (Photo courtesy of the R.F. Taitano Micronesian Area Research Center)

	Nationality	Natural Resources
STATUS QUO	Increasingly a mix of Chamorro, Asian and U.S. cultural and linguistic linkages	Subject to U.S. environmental constraints; ascendant view toward increasing restrictions in use of property, including returned excess federal property; trend toward greater strain on renewable resources as a result of population growth, exacerbated by virtually unlimited immigration.
INDEPENDENCE	Relatively more Chamorro with relatively more Asian linkages	Redefinition of local law to accommodate local conditions and economic development prerogatives; however, standards are compatible with international conventions; increased participation in Pacific regional environmental and resource management programs; strain on renewable resources reduced, partly as a result of reduced immigration.
FREE ASSOCIATION	Relatively more Chamorro with relatively more U.S. linkages	Subject to local law, international convention, with more flexibility in environmental standards, especially as related to use of private land; likely continued coordination with U.S. government environmental programs; increased participation in regional environmental and resource management programs; strain on renewable resources reduced, partly as result of reduced immigration.
STATEHOOD	Relatively more U.S. cultural and linguistic linkages	Subject to U.S. environmental constraints with stricter enforcement leading to continuing conflict with property rights and development; political power within U.S. system may mitigate, but not eliminate conflicts; U.S. position and interests in regional environmental and resource management programs likely to be staffed by Guam representative; strain on renewable resources not well regulated.

In 1979, under United Nations observation, Guam voters rejected the proposed Constitution that had been pre-approved by the U.S. Congress. The fact that the Constitution would not change Guam's colonial status as an unincorporated territory was a driving force behind the Constitution's defeat. Guam Public Law 15-128 (1980) established the Commission on Self-Determination. The Commission's initial responsibility was to remedy this situation by conducting a plebiscite on the political status that all registered voters desired.

The first plebiscite was held on January 12, 1982, resulting in a plurality vote for commonwealth (49%), followed by statehood (26%), status quo (10%), incorporated territory (5%), free association and independence (4% each) and "other" (2%). A runoff plebiscite was held on November 2, 1982, resulting in the selection of commonwealth status (73%) over statehood (27%) as the preferred political status of the Guam electorate.

Guam's leadership spent the next several years drafting and refining a legislative initiative for approval by the island's voters before submission to the U.S. Congress.

The "Guam Commonwealth Act" was introduced in the U.S. House of Representatives on February 17, 1988, and in the Senate on March 7, 1988. The first hearings on the Bill were held before the Subcommittee on Territorial and Insular Affairs of the Interior Committee of the House of Representatives in Honolulu, Hawaii, in December, 1989.

At the end of two days of hearings on the legislation, Subcommittee Chair Ron DeLugo, of the U.S. Virgin Islands, directed the Guam Commission on Self-Determination to gain the concurrence of the federal Executive Branch on the wording and provisions of the Commonwealth Act. Once obtained, Guam was to resubmit the resulting legislation to the Congress.

What Happened to Commonwealth?

In 1990, President Bush's administration organized a high-level Task Force to study and discuss the Commonwealth Act. Every second month, the Task Force and the Commission met face-to-face in attempts to agree mutually upon language and provisions for Guam's commonwealth

"In 1987, Guam voters approved of limits on immigration and the Chamorro right to self-determination."

status. After more than two years of intensive discussions, a common ground could not be achieved. The effort, while a success in many areas, was an overall failure.

Although attempts to achieve Commonwealth status continued, little progress occurred with the Bush Administration Task Force after late 1992. When the Bush Administration released its final report in January 1994 (a few days before President Clinton was sworn into office), it backed out of signed agreements with Guam (such as limits on immigration) and proposed continued U.S. governance of Guam without Guam's input.

Appealing to the newly elected Clinton Administration, Guam leaders sought a Special Representative of the U.S. President to negotiate with Guam. It was hoped that a Presidential representative would be able to move beyond the narrow bureaucratic views of the U.S. Executive Branch. After four years of negotiations with the Clinton Administration (and three different Special Representatives) it became clear that efforts to advance Guam's relationship with the United States beyond that of a possession would not occur. As the Clinton Administration's report to the Congress (October 1997) noted:

The Administration believes that various agencies with knowledge and expertise on a particular subject...should continue to be vested with ultimate authority to enact and apply federal regulations to Guam.

The overall experience of Guam was one of frustration. The desires of Guam voters were not just pushed aside by U.S. officials, they were actively undermined. For example: Guam voters asked for a limit on immigration in the Commonwealth Act, but between 1988 and 1997, the United States admitted almost 50,000 persons to Guam as



Governor Carl T.C. Gutierrez and U.S. Special Representative John Garamendi in meetings with federal agencies (1996).

naturalized U.S. citizens, permanent resident aliens or habitual residents. This number is over 35% of Guam's 1990 census population.

Furthermore, while the Guam Commonwealth Act sought the return of lands not used for military purposes, the U.S. Department of Interior's Fish and Wildlife service increased claims in the 1990s on Guam lands.

Attempts to change the status quo through Commonwealth were not only rejected by the United States, but Guam's interests were actively undermined.

Current Efforts

Public Law 23-147 (1997) created a Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination (the Commission on Decolonization).

A decision has been made to move forward with a Chamorro vote to select the island's ultimate political status in relation to the United States.

Chapter 21, Section 21106 of the Guam Code Annotated, created by Public Law 23-147, establishes three Task Forces to study and advocate the three options to be considered for Guam's prospective political status: One for Independence, one for Free Association, and one for Statehood. Section 21110 of the same Chapter specifies the language of the ballot on which votes shall be cast, as follows:

In recognition of your right to self-determination, which of the following political status options do you favor? (Mark ONLY ONE):

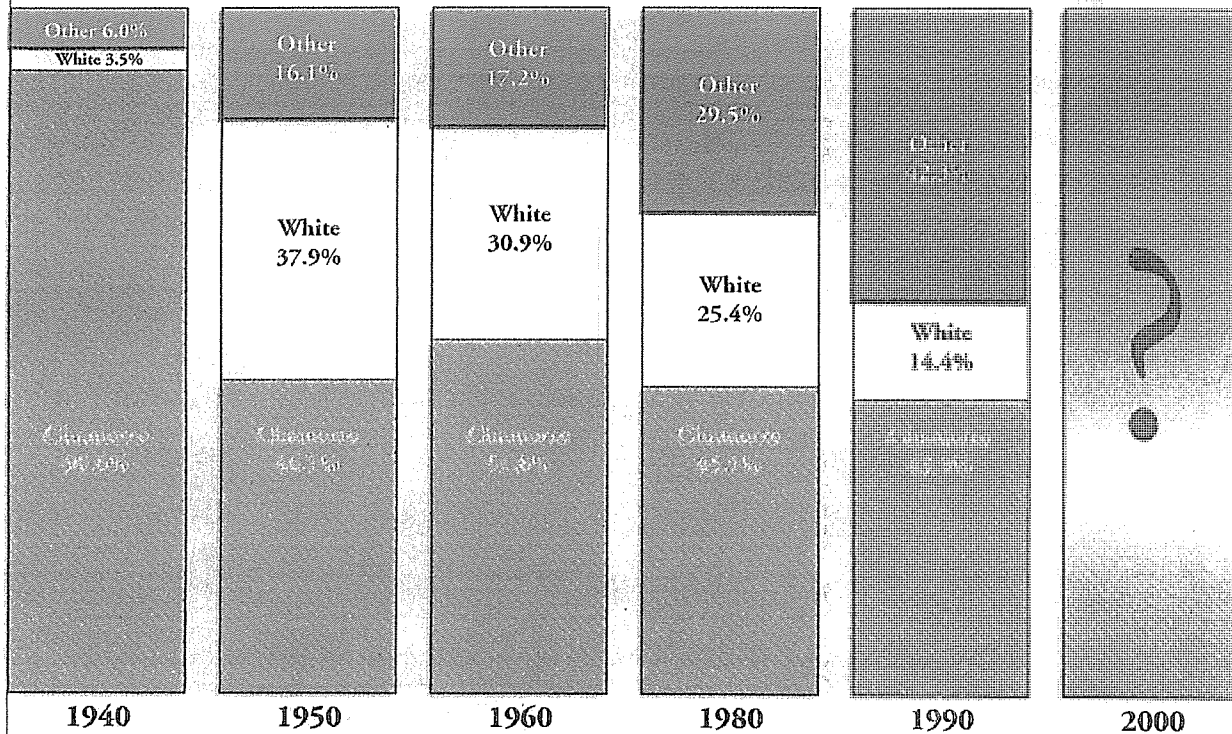
1. Independence ()
2. Free Association ()
3. Statehood ()

A plebiscite is to be held to accord Guam's "native inhabitants" (as defined by the United States in the Treaty of Paris) the opportunity to exercise their right to self-determination. The "native inhabitants" are those defined by the United States through the extension of U.S. citizenship on August 1, 1950, or persons who trace their ancestry from a person who was in Guam on or before April 11, 1899 (or such persons born before that date but temporarily absent on that date.)

In order to better educate the voting public on the three political status options, the three Task Forces were formed with the objective, in part, to assist in a public education campaign on each of the status options. This campaign is necessary to clarify the prospective conditions in Guam under each of the respective status options, so that the people can make a more informed choice.

"Attempts to change the status quo through Commonwealth were not only rejected by the United States, but Guam's interests were actively undermined."

Population Distribution by Percentage



SOURCE: U.S. Bureau of Census Decennial Reports, 1990
 OTHER: Filipino and other immigrants primarily from Asia

What Happens After the Vote?

Guam's Self-Determination Vote -- or choice of the people's preferred self-governing status -- is the first step in the Decolonization process.

Moving from a non-self-governing status to a self-governing status requires more than just a vote. It requires an end to colonial rule and the establishment of a new government. This process requires the administering Power to turn over its control to the new governmental system.

The transfer of self-governing powers to the people of Guam requires two interrelated components: (1) the transfer of powers from the administering Power; and, (2) the non-

self-governing territory's preparation to assume the powers of self-government. The first element requires the administering Power's agreement to transfer Powers, while the second (and related element) requires the development of a constitutional government to assume the powers of self-government.

The U.S. is obligated to transfer self-governing powers to Guam should Guam choose independence. The sharing of powers under Free Association would be a negotiated process, while Statehood would require the approval of the United States Government and States of the United

States. The U.S., through the U.N. Charter and its subsequent ratification of the International Covenant on Civil and Political Rights (1993) is committed to support a self-governing status for Guam although obviously it has rights of its own when it comes to transferring powers or establishing negotiated ties with Guam.

Part of the U.S. obligation in the transfer of powers to Guam is to assure that the self-governing status that Guam chose -- and the Constitution that Guam establishes -- satisfies international standards of human rights. Thus, as Guam develops its Constitution it is assumed that that

document would conform to the internationally accepted standards of universal franchise and the equal protection of the rights of all citizens without regard to race, sex or religion (See, International Covenant on Civil and Political Rights).

After Guam has established a Constitution and the United States has extended the powers of self-government to Guam consistent with the Constitution of Guam, then Guam will be self-governing.

The hope of self-government, which has remained alive through almost four hundred years of external rule, awaits our informed decision.

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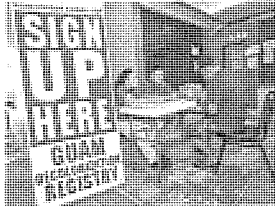
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100021, East 50th Street

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100021, East 50th Street
100021, East 50th Street

STATE FUND
1221 East 50th Street, Dept.
100021, East 50th Street
100021, East 50th Street

Election Commission closes Decolonization Registry

Shawn Raymundo , sraymundo@guampdn.com Published 3:56 p.m. ChT March 16, 2017 | Updated 16 hours ago



(Photo: PDN file photo)

In light of last week's federal court ruling that struck down Guam's plebiscite law, the local election office has stopped registering native Chamorro inhabitants for its Decolonization Registry.

Since 2002, the Guam Election Commission has worked to register Guam's native inhabitants to participate in the plebiscite vote, which was repeatedly delayed and would have quantified the island's preferred political status with the U.S. government — statehood, free-association or independence.

The local law limited voting in the plebiscite to individuals who met the legal definition of Chamorro — those who became American citizens through the Organic Act of Guam in 1950.

Arnold "Dave" Davis, who is neither legally nor ethnically Chamorro, first challenged the local government's proposed plebiscite in 2011. He argued the law is discriminatory on racial grounds.

The District Court of Guam sided with Davis' argument last week, ruling it's unconstitutional to limit voters to participate in an election based on race.

The Election Commission ceased efforts to sign up Guam's native inhabitants for the registry, which contained more than 13,200 individuals, according to GEC Director Maria Pangelinan. While local officials, including elected Attorney General Elizabeth Barrett-Anderson, are considering an appeal, Pangelinan said her office is following the letter of the law.

"That's what our mandates say now, based on the court ruling," she said. "So, if that changes, than we change with it."

Pangelinan said the Election Commission had been in the process of cleaning up the registry by eliminating duplicates. They hadn't removed any of the deceased from the list yet, as that would have occurred when the plebiscite was officially scheduled.

"We've been in the process of cleaning that list up. We've been looking at duplicates, been looking at incomplete applications," Pangelinan said. "We haven't done a final go-through, I guess. We were still in the final stages of cleaning up."

Pangelinan said that at times it was tough getting native Chamorro residents to sign up for the registry because many didn't know much about the plebiscite.

"What I've experienced is that people don't know enough about it, that's one. So, they don't want to register because they're thinking is 'We'll lose our citizenship or military ID,'" she said. "Secondly, the plebiscite has not been scheduled, so people say, 'Why register if there's not going to be a plebiscite?'"

Judge: Plebiscite law unconstitutional; AG may appeal
(<http://www.guampdn.com/story/news/2017/03/08/judge-arnold-davis-plebiscite-law-unconstitutional/98888880/>)

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Bevacqua: Decolonization never easy or fair

Michael Lujan Bevacqua, For PDN 1:28 p.m. ChT March 16, 2017



(Photo: PDN file)

Judge Frances Tydingco-Gatewood's decision last week in favor of Dave Davis and against the rights of Guam's indigenous people was not surprising. For those familiar with the U.S. court system, it has long been designed to take rights away from indigenous people of the U.S., and instead develop nonsensical, self-serving arguments that force incorporation of the indigenous people and their lands/resources into the union.

For your average federal judge, the particularities of Guam's status or the quest of Chamorros for decolonization are trivial and mean little. As a Chamorro herself, we might have hoped that Tydingco-Gatewood would have taken this decision as a chance to expand American notions of justice.

This would mean to take seriously its history and its contemporary responsibilities as a colonizer, and simply follow its obligations as a signatory to the United Nations charter. To also take seriously the notions that the U.S. and its court system are based on issues of justice or liberty, and what that would mean in terms of how to guide the decolonization of the sites of American-made injustice and liberty deprived in the name of American interests.

She had a chance to make a very courageous intervention into a web of legal decisions that has long been hostile to indigenous people, Chamorros included — to make her decision in the name of American ideals that people often speak of proudly but are suddenly rare and impossible to find when the territories are concerned.

Tydingco-Gatewood instead chose to act like nearly all her brethren of the U.S. court system might, to simply erase the indigenous people, their rights and pretend that the answer to American colonialism, is more American colonialism.

Tâya' tininas na châlan gi hilo' tâno'. For indigenous people in the United States and other countries, this is sadly the way our tale tends to unfold. The struggle for justice in the name of self-determination or decolonization is never straight, clear or fair. Part of the reason is because our fights take place within legal systems that are built on indigenous injustice and rife with delusions of American exceptionalism and sinlessness.

These court systems and the decisions that comprise them are mazes. They are created through convoluted, often insane legal paths, the blazing of which result in the sovereignty of an indigenous people disappearing and only objects of American power remaining.

Almost two centuries ago, the infamous Marshall Cases represented one such magical maze. Native American tribes went into those legal cases as independent nations, recognized through the U.S. Constitution and various treaties, but were under assault by those wishing to displace them or possess their lands. When those same tribes emerged, their sovereignty and rights had been lost in the legal labyrinth and henceforth the U.S. court system has referred to them as domestic dependent nations.

This is a familiar, cruel and degenerative alchemy, where the precious inalienable right to self-determination or sovereignty is transformed into dead weights meant to further chain the indigenous people to their colonizer.

The more a country is convinced of its greatness, the more difficult it is for its colonies to be decolonized in any meaningful way. Decolonization, in order to mean anything, requires an admission that a possession and the indigenous people attached to it demand or deserve more than what the colonizer is willing to give.

It is a process that should not be controlled by the colonizer, as such amounts to continuing colonization. It should not be something that must follow the rules of the colonizer, as that as well simply means further colonization.

Michael Lujan Bevacqua is an author, artist, activist and assistant professor of Chamorro studies at the University of Guam.

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https://www.postguam.com/news/local/doj-chamorro-land-trust-law-is-race-based-discrimination/article_950ca1d8-03ed-11e7-98f5-5f1d6fc4b259.html

DOJ: Chamorro Land Trust law is race-based discrimination

Gaynor D. Daleno | The Guam Daily Post 6 hrs ago

Government of Guam land-use law and programs available only to “native Chamorros” discriminate based on race or national origin, according to a new notice from the Department of Justice following a years-long investigation.

“This letter is to inform you that the Department of Justice has completed its investigation and the principal deputy assistant attorney general for the Civil Rights Division has authorized the filing of a complaint in federal district court against the government of Guam, the Chamorro Land Trust Commission, and its administrative director,” Vanita Gupta, principal deputy assistant attorney general for the Civil Rights Division, wrote to the Calvo administration on Jan. 13, shortly after the Trump administration took office.

Air Force veteran Arnold “Dave” Davis, a resident of Guam for decades, said he first filed a complaint with the Justice Department over the Chamorro Land Trust Commission’s policies after he was denied his application for the lease of CLTC land.

He called some of Guam’s laws and policy giving preference to native Chamorros “institutionalized discrimination.”

He first called GovGuam’s attention to the issue in a letter to the Office of the Attorney General in October 2003, in which he mentioned that a multi-ethnic group of Guam residents had questioned “the exclusionary and race-specific provisions of the Chamorro Land Trust Act.”

When Davis couldn’t get the local government to change its policy, he said he turned to the Justice Department about eight years ago.

And after having been in touch with DOJ for almost five years, and still not seeing action from Washington, he said he thought the issue went cold.

And recently, he received a phone call that revived his hope that Guam laws would change via the federal government's intervention.

A third of the island denied CLTC rights

“What prompted this was a recognition of the fact that more than 60,000 residents in Guam, who are U.S. citizens, are denied rights under the Chamorro Land Trust Act,” Davis said. That's more than a third of the island population.

The U.S. Department of Justice's Civil Rights Division, in the notice, gave the government of Guam until Jan. 31 to respond whether the local government would be willing to enter into pre-lawsuit negotiations in an effort to resolve the matter expeditiously, in the form of a court-approved consent decree.

The Guam AG's office on Tuesday acknowledged it is aware of the letter, but it is unclear from the governor's office if a response was submitted to DOJ by the Jan. 31 deadline.

To stave off a lawsuit, the local government must, at a minimum, provide for relief “addressing the specific violations and preventing future violations” of federal housing laws, including lease of land, that discriminate based on race or national origin, according to the Justice Department.

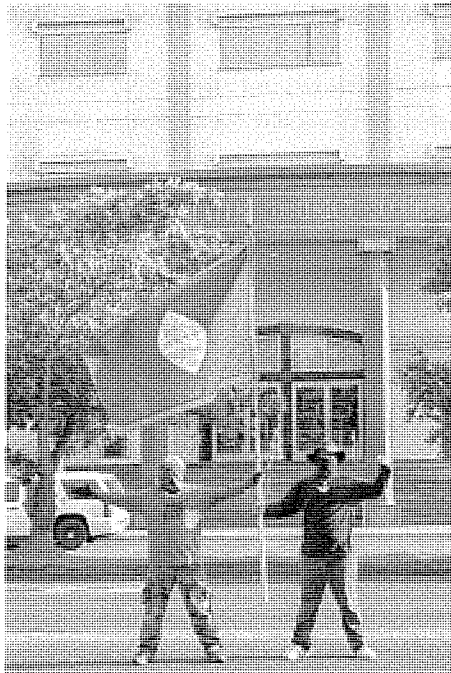
It's discriminatory and in violation of federal law when Guam law limits certain housing-related benefits “to persons who are ‘native Chamorros,’” according to the Justice Department.

Gaynor Daleno

https://www.postguam.com/news/local/gec-halts-registration-for-plebiscite/article_2005ad70-0943-11e7-bc42-8328cc99e118.html

GEC halts registration for plebiscite

John O'Connor | The Guam Daily Post 5 hrs ago



PROTEST: Ned Pablo and Jayton Okada waved a Guam flag to protest the recent decision declaring the political status plebiscite unconstitutional. A CHamoru Rights Decolonization Solidarity Rally was held across from the District Court of Guam, Wednesday, March 15. David Castro/The Guam Daily Post

Gallery: Chamoru protest



SINCE 1789: Dozens of people came out to protest the recent decision declaring the political status plebiscite unconstitutional. A CHamoru Rights Decolonization Solidarity Rally was held across from the District Court of Guam protesting the recent decision, Wednesday, March 15. David Castro/The Guam Daily Post

As part of the U.S. District Court ruling that stops the local government from enforcing Guam's plebiscite law, the Guam Election Commission has ceased registering voters for a plebiscite on the advice of its legal counsel.

The legal counsel also advised the commission to stop spending public funds related to its duties under the plebiscite statute.

GEC Executive Director Maria Pangelinan told The Guam Daily Post that the commission has sent memos to all agency and department heads informing them that their respective decolonization registrars are to turn in their registration forms. Names that are already on the registry will be maintained, she added.

Attention from different sources

The commission's actions followed the March 8 decision rendered by District Court Chief Judge Frances Tydingco-Gatewood. Air Force veteran and longtime resident Arnold "Dave" Davis challenged the plebiscite statute years ago because the "native inhabitant" requirement barred him from taking part in the political status vote. Tydingco-Gatewood found the law to be race-based and in violation of the U.S. Constitution.

"The Decolonization Registry is central to the law that has been enjoined, and there's no need for any further plebiscite registration. Any Guam registered voter is now automatically eligible to vote in any Guam election, including a political status plebiscite," Davis told the Post in response to GEC's announcement.

The local reaction to the ruling has been mixed. While agencies attempt to comply with the decision, the governor intends to continue with a political status vote that would be inclusive of all residents, regardless of ancestry.

The governor did propose a dual ballot that separates the non-native voters' ballots from the indigenous residents' votes.

Some stakeholders, such as freshman Sen. Fernando Esteves, found themselves at odds with opening up the vote to all residents, noting it was meant to give the native residents of Guam a voice amid the island's colonial past.

But the plebiscite ruling has drawn some international attention as well. Publications such as the National Review and Washington Examiner have characterized the plebiscite statute as racially driven, and a clear violation of the U.S. Constitution that had been reversed by a single man fighting for more than half a decade.

"When I say Constitution, I mean the Constitution of the United States," said Adrian Cruz, chairman of the Decolonization of Free Association. "Really that's kind of an insult to the native inhabitants of Guam because the Constitution wasn't taken into consideration when they made the native people of Guam U.S. citizens by the Organic Act."

Considered an insult to the native people

Cruz was part of more than two dozen people protesting the plebiscite ruling directly across the street from the U.S. District Court in Hagåtña yesterday afternoon. The group, displaying the Guam flag and political signs, had originally congregated closer to the steps of the court, but was asked to move by federal officials, Cruz said. The protest was a spontaneous development organized by resident Ned Pablo, who placed the call on social media.

"We're going to call out the leaders, and if they don't come, then we call them cowards," Pablo told the Post as he rallied protesters and waved at passersby.

The full extent of the fallout from the court's landmark decision will likely remain unknown at the end of a single protest or with the actions of a single agency. The Commission on Decolonization is anticipated to meet this month to discuss a potential date for the new status vote and the cessation of the decolonization registry. Moreover, a resolution supporting an appeal of the court's decision currently sits in the legislature with a public hearing scheduled for Friday.

The inability of the native people of Guam to engage in self-determination is an insult to their basic human right, Cruz said. This right did not come from any government, but from peoples' "creator," he said. Whatever direction comes from such determination is better than Guam's current status, he added. The island, as a U.S. territory, lacks voting representation in Congress and is unable to vote for president. This inequality extends to all residents

of Guam, regardless of ancestry, and is unfair to those from Guam who died fighting wars with other American citizens, Cruz said.

"Our blood is just as expensive as anybody else's blood in the mainland, and we should be afforded the same rights and prerogatives as people there as well."

Ron McNinch, a political commentator and an associate professor at the University of Guam, said although Guam residents are offered three political status choices – full integration, which many in Guam call 'statehood'; free association with the United States; or independence from the U.S. – there are realistically only two ways to go.

"There are only two directions Guam can go: toward the U.S., including status quo; or away from the U.S.," he said.

If Guam wants to move away from the U.S., this means giving up the passport and U.S. citizenship, he said.

He's surprised at the protest against the judge's decision.

"Judges are the most respected and trusted public officials on Guam," McNinch said. "Protesting against a judge for making an objective ruling simply shows just how detached many are from the reality voters on Guam live with."

John O'Connor

Reporting on utilities, healthcare, education and other topics.

https://www.postguam.com/forum/editorial/election-commission-s-decision-to-stop-registration-of-voters-for/article_a732d70a-0952-11e7-8073-438e2d72d75d.html

Editorial

Election commission's decision to stop registration of voters for plebiscite a good call

Daily Post Staff 4 hrs ago

The Guam Election Commission did the right thing – to be on the legal safe side – by suspending the registration of additional voters for a plebiscite that a federal judge has ruled unconstitutional and race-based.

The commission made that decision recently, upon the advice of its legal counsel, in light of the decision on March 8 by U.S. District Court Chief Judge Frances Tydingco-Gatewood.

Tydingco-Gatewood specifically “permanently” barred the commission and “the government of Guam and its officers, employees, agents, and political subdivisions” from enforcing the political status plebiscite law.

The judge made the decision after the Ninth Circuit Appeals Court ruled in favor of the plaintiff, Arnold “Dave” Davis, a non-native of Guam and Air Force veteran who lived on Guam for decades and who also sued on behalf of others who are non-native voters of Guam.

The federal judge's order was clear, according to the commission's legal counsel, Jeffrey Cook.

“Thus the Guam Election Commission must immediately cease registering individuals to take part in a plebiscite and stop expending any funds related to its duties under the political status plebiscite statute,” according to the legal counsel.

It's now up to the governor or the legislature – or both – to determine what action to take, the legal counsel stated.

National news reports and opinion writers have picked up on the story, in part discussing how the governor had shown “defiance” of the court's order.

After the judge's order, the governor said he still wants the political status plebiscite held by next year, possibly using separate ballots for indigenous residents and non-native residents of Guam.

Attorney General Elizabeth Barrett-Anderson had reacted by saying she will review whether an appeal could be filed.

The issue had been reviewed by the Ninth Circuit Appeals Court, which ruled in 2015 that it's up to the chief trial judge to hear and decide on the merits of the case.

So unless, and until, the governor and the local AG's office files an appeal in a higher court and gets an order for Tydingco-Gatewood's decision to be on hold, allowing the registration of voters for the plebiscite to continue would only be futile.

It would also give voters from both sides a false sense of hope that registering would someday yield results, even without changing the underlying issue of a plebiscite that has been deemed unconstitutional.

https://www.postguam.com/entertainment/lifestyle/guam-native-wins-prestigious-literary-fellowship/article_e9eab62e-030a-11e7-a1e2-9f1c9f7bd031.html

Guam native wins prestigious literary fellowship

Craig Santos Perez praises the Pacific through poetry

Tihu Lujan | The Guam Daily Post Mar 12, 2017 Updated Mar 12, 2017



Craig Santos Perez, a former resident of Mongmong, was recently awarded the Lannan Literary Fellowship for Poetry, recognizing his literary works so far and the potential he has for the future. Perez received a monetary gift and will reside at the Lannan properties in Marfa, Texas for four to six weeks, where the poet will be in an "ideal writing environment." Photo courtesy of Craig Santos Perez

An established poet, educator and literary genius, Guam native Craig Santos Perez was recently awarded the prestigious Lannan Literary Fellowship for Poetry, recognizing the meritorious and potential work of the blooming literary artist.

The Lannan Foundation, which awarded Perez, is a family-based organization that is dedicated to cultural freedom, diversity and creativity, awarding monetary prizes and a month-and-a-half long residency at the Lannan properties in Marfa, Texas.

The opportunity grants Perez the time and environment to immerse himself in an ideal writing environment among other Lannan recipients, where the authors will have the space to create their next work of art.

The Lannan Literary Fellowship is Perez's second distinguished honor in a short period of time; also having received the 2015 American Book Award for his poetry book "unincorporated territory [(guma)]".

Guam son

A native Chamorro and former resident of Mongmong, Perez relocated to California with his family in 1995 and found roots in Manoa, Oahu in 2010 where he has resided since.

Perez currently works as an associate professor in the English department of the University of Hawai'i, Manoa, where he teaches creative writing and Pacific literature.

The accomplished literary artist has co-edited two anthologies of Pacific literature, authored three books of poetry, released his first audio poetry album "Undercurrent" in 2011, and is the co-founder of Ala Press – the only Pacific literature publisher in the United States, according to Perez.

Perez's poetry, essays, fiction, reviews and translations have also been published in more than a hundred national and international scholarly and literary journals and anthologies, he said.

In 2010, the Guam Legislature passed Resolution No. 315-30, which recognized and commended Perez as "an accomplished poet who has been a phenomenal ambassador for our island, eloquently conveying through his words, the beauty and love that is the Chamorro culture," according to the resolution.

Upon receiving the Lannan Literary Fellowship, The Guam Daily Post interviewed Perez as he prepares for his Lannan residency where the poet might write his next masterpiece.

Q&A with The Poet

Q: What was your reaction to being nominated, and then winning the prestigious Lannan Literary Fellowship? What does the award and recognition mean for you as a poet?

A: I felt surprised, then grateful. To me, the award shows that my poetry is being valued and appreciated by literary experts. The recognition means that my poetry is circulated and being seen on a national level.

Q: As a native of Guam, how does it feel to be the first Pacific Islander/Chamorro to receive the fellowship? What does this mean for aspiring poets and authors back home and across the Pacific?

A: Usually, Guam and Chamorros are invisible in America. I became so used to being invisible and marginalized that being seen in this way feels strange. At the same time, it feels empowering because now I have a platform to highlight my culture, history, and experiences. I hope this means that more attention will be given to all the other talented authors writing back home and across the Pacific.

Q: What are you looking forward to the most during your residency at the Lannan properties in Texas? What are you hoping to gain out of your experience and time there?

A: I am looking forward to having quiet time to work on my next book of poems, which will focus on the themes of nature, ecology, environmental justice, climate change, animals and food.

Q: Where did the young Craig Santos Perez get his inspiration and talent for writing poetry? Can you share a memory or experience that prompted you to start writing?

A: I have been very inspired by my parents, who are both engaging storytellers. I always remembering sitting around the table with them during family gatherings and listening to all their stories. Plus, they are both voracious readers and they always bought me children's and young adult books, comics and poetry when I was young. From these beginnings, I was inspired to start writing in high school when my family migrated to California. I had three wonderful English teachers that taught me the value of literature and creative writing: Jeff Kass, Kami Tomberlain, and Thomas Seaton.

Q: As an accomplished poet, author, and assistant professor at the University of Hawaii, Manoa, what is one piece of advice you can impart to your students and aspiring poets across the Pacific?

A: To students and aspiring poets, I advise to write with creativity, passion, truth, wonder, love, respect and fierceness. Write about the everyday and the eternal. Write about the spiraling connections between the past, present, and future. Write about your family, your village, your island, your ocean. Write about your memories and migrations, your fears and your dreams. And read other writers, Pacific and non-Pacific. Share your work at open mics and send it out for publication. And always value your stories.

Tihu Lujan

Covering Business, Nonprofits, Tourism, Environment, Parks and Rec., Special Features, and more.

https://www.postguam.com/entertainment/lifestyle/guahan-i-t-no-chamoru-the-land-of-the-chamoru/article_b78df7fe-0553-11e7-b423-e7c85d936dc9.html

Guahan, i tãno' CHamoru: The land of the CHamoru

By Tihu Lujan | The Guam Daily Post Mar 12, 2017 Updated 1 hr ago

Editor's note: While Chamorro is commonly used on the island, CHamoru is the official spelling in Chamorro Standard Orthography. It has been codified recently by the passage of the law re-establishing the Kumision i Fino CHamoru.

Taotao tãno' translates to "people of the land" and is commonly referred to the CHamoru people, indigenous to Guam and the Northern Mariana Islands. Last week, The Guam Daily Post sat down with Saina Laura Torres Souder to dive into the meaning and implications of the "taotao" in taotao tãno'.

This Sunday, the Post sat down with former senator, educator, and community activist Hope Cristobal to understand more about the "tano" in taotao tãno' and what it means in connection to the CHamoru people.

"Your indigeneity has to do with your ties to your ancestral lands, your homelands, or home islands in our case," Cristobal said. "When tãno' is spoken about, we don't speak about tãno' as a separate thing, we are truly a people of the land."

Guardians of the tãno'

In the early 1980s, Cristobal was primarily a science teacher at Simon Sanchez High School, but she always made it a point to teach at least one CHamoru class as well.

During this time, Cristobal and another teacher took their CHamoru classes on a field trip to Rota, to the home and property of the late Tun Thomas and his wife Tan Beata Mendiola. According to Cristobal, this area was known as "Mochong," a sacred ancestral grounds where the Mendiolas would act as the gatekeepers to our ancestors' livelihoods and presence.

According to Guampedia, Mochong is believed to be one of the very first settlements of the Mariana Islands, dating back as far as 1000 B.C.E. The area, which was listed on the National Register of Historic Places in 1985, is still visible today as an extensive ancient village site on the northern end of Rota.

A magnificent site of ancient CHamoru civilization, the site hosts approximately 47 latte stone sites, including an extremely rare structure with 14 columns and even a latte stone wall more than 50 feet tall.

The Mendiola family of Rota occupied land adjacent to this property, according to Cristobal, and would guard the property to extremes that would inspire the public official to dedicate her eventual public roles to fighting for ancestral land usage, native rights and agricultural respect.

"When you look at Mochong, it's like our ancestors just moved out months ago," Cristobal said. "The house structures are still there, the surface still had leftover artifacts, including their belongings and tools. Tun Thomas respected that the area was their residence. He would always say to "respeta" or "respetu"; it was so ingrained in him."

Fighting for sacred lands

Cristobal said that Tun Thomas was so protective of the property to the extent that he would stop any person who drove near the site. The land's caretaker wanted no profane language used, no loud noises. She said that he always wanted total calmness and for people to take deep breaths before they even entered the sacred grounds.

So, why was Tun Thomas so protective of this ancient land? The answer lies in the root of why many of our manamko' and CHamoru activists fight the good fight.

A World War II survivor, Tun Thomas fiercely protected his family's land from intruders and has fought off different kind of invaders and threats to the CHamoru way of life many times throughout his life.

The CHamoru guardian aggressively opposed the covenant that gave way for the Northern Mariana Islands to become a commonwealth and before his death, opposed the establishment of the recently proposed National Park Service in Rota, which would ultimately allow and bring more foot traffic to accessible sites like Mochong.

"I always wondered why this man was so fiercely protective of Mochong and keeping the land within the family," Cristobal said. "Looking at this place historically, Tun Thomas knew that this place was sacred. He knew that this was where his ancestors lived and were buried. That's how sacred the tãno' was to him."

It was through experiences like these and passionate people like the Mendiola family of Rota that Cristobal said inspired her to add fuel to the ancestral land defense on Guam.

"The kids would always ask 'Why is he so mean?' and I would say 'Mean? He's trying to teach us a lesson,'" Cristobal said. "His message to us is that we have to protect this land that has always been ours. Lands like Mochong have always been free to the CHamoru, why would you want to turn it over to the federal government? This was a lesson for me as well."

Acknowledging their freedom

While ancestral lands like Mochong still exist today across the Mariana Islands, Cristobal said that these lands still face the threat of federalization and desecration.

Lands such as Pagat and Litekyan (Ritidian) on Guam have been proposed as military firing ranges for years.

Land in Sumay, Andersen Air Force Base and many other areas around the island remain under the ownership of the United States government, where as they have been freely occupied by the taotao tãno' for thousands of years, according to Cristobal.

Citing renowned anthropologist Laura Thompson, Cristobal said that prior to Spanish arrival on island in the early 16th century, CHamoru lands and livelihoods thrived with nearly 200 small and clustered village settlements that harbored anywhere from 30 to 50 families spread throughout Guam's outlying coasts.

These lands and residents documented by Spanish explorers during their first arrival recorded impressive village systems populated by a people who lived off the land, Cristobal said.

In deep admiration and reverence, Cristobal recounted a time when the taotao tãno' were a free and sovereign people with a brilliant livelihood that depended on a respectful relationship with the land, only to be interrupted by the onslaught that colonization would bring in the coming centuries.

"Our lands represent a people who knew what freedom was like, emerging nationals of their own island," Cristobal said. "Our survival as a people has a lot to do with our ties to and respect for the land. It is land that makes us who we are as taotao tãno'. It makes us a special people and distinguishes us from others that have come to our shores."

Over time, the CHamoru people would be slaughtered and driven out from their lands as the Spanish invaders attempted to colonize the island for Spain and Roman Catholicism, banning ancient practices that established a communion with the land.

"Our people were free, we knew what freedom was, and we have always been defending and fighting for our freedom," Cristobal said. "We were the people of the land. To call ourselves the taotao tãno' reconnects us to that freedom that our ancestors had."

Respecting hãlom tãno'

Fast forward to today, these lands still exist and are traveled through everyday, Cristobal said. Lands across the island topped with residential areas and industrial developments were once the free ranging pathways of the taotao tãno', and they still are, she said.

These pathways and lands are honored and respected today through the practice of certain ritualistic rites in CHamoru culture.

When the CHamoru say "Guello yan guella kão sifa yu' maloffan" or "Ancestors can I pass through?" we are asking the taotao tãno', our ancestors, for not only allowance, but awareness that we respect and recognize their space.

When our elders say "Na'faloffan yu' putfabot. Mungnga mana'puti este siha i famagu'on" or "Please make me pass, don't hurt my children," they are speaking to our ancestors whose spirits are still present in the hãlom tãno'. Hãlom tãno' literally means "in the jungle," but takes on a much deeper meaning of a place of respect and sanctity, where we believe our ancestors' spirits reside, Cristobal said.

"Hãlom tãno' is very sacred to us because it is grown over these antigu villages where the spirits of our ancestors are still around," Cristobal said. "Our ties to the land has a lot to do with generations of knowledge that have been passed down to us and our deep belief that our ancestors' spirits remain."

This familiar saying, practiced and preached by manamko' holds much more esteem than simply asking to enter a jungle or permission to cultivate resources, Cristobal said that we as present-day taotao tãno' acknowledge our ancestors, and the fact that these are their lands and resources.

"They may have biologically left, but they still spiritually exist there, and for that the sacredness is respected and honored," Cristobal said. "When we do this we're basically responding to our ancestors, saying that we will keep the ecosystem as natural as nature would have it. That is how we live in harmony with our hãlom tãno'."

Communion with nature

Even when we enter these sacred places, the CHamoru interaction with the land is still held to the highest standards of respect. CHamoru culture has taught the taotao tãno' a respectful system of taking no more than is needed from the hãlom tãno'.

Cristobal cited suruhas and suruhas, CHamoru healers who relied on medicine found in the hãlom tãno'. Suruhas like the late Tan Pai Certeza would venture into the hãlom tãno' to gather medicinal resources, but they would never take more than they needed, and they would know how and where to retrieve the items, she said.

Similarly, "peskadot" or fishermen would be conscious and careful not to fish for more than what they would eat, ensuring the abundance of sea life for other villagers and in respect for the hãlom tãno'.

"The land meant our sustenance, our survival, and so it was important that we maintain our ties with the land," Cristobal said. "The taotao tãno' are a part of the natural environment. The remnants of our ancestors are still buried in the hãlom tãno' and the coastal areas, but they are also very much alive in who we are as people."

Taotao Tãno' today

A champion of indigenous rights, ancestral land usage and environmental causes, Cristobal encourages the community to uphold the standard of respect for the hãlom tãno' in order to continue being taotao tãno' and to provide a sense of belonging that has always been ours, she said. She added that it is essential for the CHamoru to have a connection with the land to be able to survive and thrive as a people.

"All of the things that we do are a part of this whole," Cristobal said. "Who we are and our ties to the tãno' as taotao tãno', we don't want to break that. We have a responsibility to speak out against injustices that would destroy our hãlom tãno'. We have been the caretakers of our land for centuries, why do we feel less apt to do so today? We can. We have it within us. The land has always been free."

Tihu Lujan

Covering Business, Nonprofits, Tourism, Environment, Parks and Rec., Special Features, and more.



CANCELLED: First Notice of Public Hearing - Thursday, March 16, 2017 at 6:00 PM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: phnotice@guamlegislature.org
Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>
Bcc: neil@postguam.com, Sabrina Salas <sabrina@kuam.com>, parroyo@k57.com

Thu, Mar 9, 2017 at 7:15 PM

March 9, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing - CANCELLED Thursday, March 16, 2017 at 6:00 PM

Håfa Adai!

Please be advised that the Committee on Culture and Justice has CANCELLED its notice to conduct a public hearing on Thursday, March 16, 2017, beginning at 6:00 PM in / *Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

Resolution No. 51-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Resolution No. 52-34 (LS) - Therese M. Terlaje

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM NOT ENTER INTO A CONSENT DECREE WITHOUT APPROVAL OF THE GUAM LEGISLATURE AND THE GOVERNOR OF GUAM REGARDING THE RECENT THREATENED LAWSUIT PROPOSED BY THE UNITED STATES DEPARTMENT OF JUSTICE OVER THE CHAMORRO LAND TRUST ACT.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via / *Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior

to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse'!

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The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature



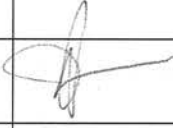

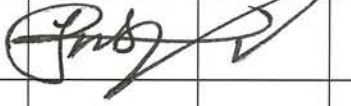
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senatorterlajeguam@gmail.com

COMMITTEE VOTE SHEET

Resolution No. 51-34 (LS) – Relative to supporting that the Government of Guam move forward to appeal the ruling of the District Court of Guam to assist in defending the rights of the native inhabitants of Guam.

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Vice Speaker Therese M. Terlaje Chairperson 3/17/2017		✓				
Senator Telena C. Nelson Vice Chairperson		✓				
Speaker Benjamin J.F. Cruz Member						
Senator Joe S. San Agustin Member		✓				
Senator Frank Blas Aguon, Jr. Member 3/17/17		✓				
Senator Louise Borja Muna Member						
Senator Fernando Barcinas Esteves Member	FBE	✓				

COMMITTEE REPORT DIGEST

I. OVERVIEW

Resolution No. 51-34 (LS) was introduced on March 9, 2017 by Vice Speaker Therese M. Terlaje, and was subsequently referred by the Committee on Rules to the Committee on Culture and Justice on March 10, 2017.

The Committee on Culture and Justice convened a public hearing on Resolution No. 51-34 (LS) on March 17, 2017 at 9:00 AM in *I Liheslatura's* Public Hearing Room.

Public Notice Requirements

Notices for this public hearing were disseminated via email to all senators and all main media broadcasting outlets on March 9, 2017 (5-Day Notice) and again on March 14, 2017 (48-Hour Notice). The notice was also published in the Guam Daily Post on March 10, 2017 and in the Pacific Daily News from March 14th through 16th.

Senators Present

Vice Speaker Therese M. Terlaje, Chairperson
Senator Telena C. Nelson, Vice-Chairperson
Senator Regine Biscoe Lee
Senator Joe S. San Agustin
Senator Michael F.Q. San Nicolas
Senator Frank Blas Aguon, Jr.
Senator James V. Espaldon
Senator Thomas A. Morrison
Senator Mary Camacho Torres
Senator Louise Borja Muna
Senator William M. Castro
Senator Fernando Barcinas Esteves

Submitted Written Testimony

Elizabeth Bowman
Ned Pablo
Maria Pangelinan
Robert Underwood
Connie Rose Lujan Sayama
Rita Franquez

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Mayor June U. Blas and Vice Mayor Jessie P. Bautista
Anghela Santos

II. SUMMARY OF TESTIMONY & DISCUSSION

The public hearing was Called-to-Order at 9: 01 AM.

Vice Speaker Therese Terlaje, Chairperson of the Committee on Culture and Justice, called the hearing to order and announced Resolution No. 51-34 (LS), As Introduced. Chairperson Terlaje before beginning to hear testimony went over protocol for the gave testimony. Chairperson Terlaje asked first that everyone remain seated until their names were called. Once their name has been called to the table and acknowledged to begin their testimony, she asked that they remain seated during their testimony and that they limit their testimony to 5 minutes to ensure that there is enough time to hear everyone. If time permits, more time will be afforded to anyone at the end.

The Chairperson Terlaje read from the sign in sheet list attached to invite those who would like to testify to come to the table.

Before receive oral testimony, Chairperson Terlaje read into the record, a letter on Chamorro Self-Determination delivered by Dr. Robert Underwood yesterday to all senators. Letter dated March 16, 2017 and addressed to Vice Speaker Therese Terlaje from Dr. Robert Underwood is attached.

Chairperson Terlaje invited those listed on the Sign-In sheet to give their testimony. See attached Sign-In sheet.

The following people gave oral testimony and their testimony is attached:

Bob Pelkey: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Harold Cruz: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Saina Ofing Jackson: In Support of the Resolution No. 52-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Vicente Garrido: In Support of the Resolution No. 52-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Enrique Torres: In Support of the Resolution No. 52-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Robert LG Benavente: In Support of the Resolution No. 52-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Jamela Santos: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Mike Phillips: In Support of the Resolution No. 52-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

The senators had questions for attorney Mike Phillips after his testimony.

Chairperson Terlaje:

Thank you Attorney Phillips and I'd like to thank you for your work for getting the Chamorro Land Trust implemented in 1995. Si Yu'us Ma'ase.

Chairperson Terlaje:

I've been putting off the questions from the panel.. Attorney Phillips, if you don't mind, could we ask you a couple of questions?

Senator San Nicolas:

Hi Mike. I am trying to see, in my mind, how everything is going to unfold, based on what you shared, for example. And you testified that if you were asked, if you thought, we would win the case; you said your answer was, "No."

Mike Phillips: Yeah, I don't think so.

Senator San Nicolas:

How about the appeal?

Mike Phillips: Of course, Sen. Mike, and I qualified that. I started and hope that ...we should try...and the attempt and going on record...when this time has more consequence...when we end up in Congress one day....that's where we were before..can you imagine yourself negotiating on behalf of the People of Guam...How does a Congressman from a city or a county in Washington state look at that and say...es we do...It will have more consequences...that's where we were before...Before had consented...you know you are right...how can a congressman...30 years earlier or 20 years earlier....

The remainder of the question and answer portion is attached through the digital recording or available at https://www.youtube.com/watch?v=e-_GnoMVOSA

Senator Carmen Kasperbauer: In Support of the Resolution No. 51-34 (LS). Written testimony is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

John Raymond Aguon: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Hope Cristobal: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Lasia Kasel: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Ray Lujan: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Darrin Pangelinan on behalf of Lakretia Castro-Santos and Social Work Student Alliance: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Rosario Perez: In Support of the Resolution No. 51-34 (LS). Written testimony is attached.

Jose Garrido: In Support of the Resolution No. 51-34 (LS). Digital recording is

attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Mr. Garrido also referred a letter from the Department of Interior dated February 26, 1952 which is attached.

Josette Quinata: In Support of the Resolution No. 51-34 (LS). Digital recording is attached.

Carlos Camacho: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA

Mr. Camacho also referred to the Native American Direct Home Loan program which is attached.

Magalahi Amiti: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Michael Bevacua: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Trini Torres: In Support of the Resolution No. 51-34 (LS). Digital recording is attached.

Sinot Ronald Laguana: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Ned Pablo: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Frank Munoz: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Dr. Rosa Paloma: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Desiree Ventura: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Shannon McManus: In Support of the Resolution. See attached digital recording. See written attachment of passage read during testimony.

Alissa Eclavea: In Support of the Resolution No. 51-34 (LS). Digital recording is attached or see link https://www.youtube.com/watch?v=e-_GnoMVOSA.

Chairperson Terlaje thanked everyone for coming and staying and waiting for their chance to speak on the resolution.

The next resolution, Resolution No. 52-34 (LS) was heard.

The public hearing was adjourned at 2:36 PM.

III. FINDINGS & RECOMMENDATIONS


Insert the "research" portion of your committee work (i.e. outcomes of testimony review, research, related studies, stakeholder meetings, committee mark up sessions, etc...).

The Committee on Culture and Justice to which was referred Resolution No. 51-34 (LS) RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM, hereby submits these findings to I Mina'trentai Kuattro na Liheslaturan Guahan and reports out Resolution No. 51-34 (LS), with recommendation TO DO PASS.

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2017 (FIRST) Regular Session

Resolution No. ~~51~~⁵¹-34 (LS)

Introduced by:

Therese M. Terlaje 

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.


1 **BE IT RESOLVED BY *I MINA'TRENTAI KUÁTTRO NA***
2 ***LIHESLATURAN GUÁHAN*:**

3 **WHEREAS**, the government of Guam should move forward and appeal the
4 ruling of the District Court of Guam, Davis v. Guam, Civil Case No. 11-00035, in
5 defending the rights of the native inhabitants of Guam; and

6 **WHEREAS**, the people of Guam have waited many years to be heard and their
7 voices should not be minimized or lessened, as this ruling attempts to accomplish;
8 and

9 **WHEREAS**, the native inhabitants of Guam are entitled to their right to self-
10 determination; and now, therefore, be it

11 **RESOLVED**, that *I Mina'trentai Kuáttro Na Liheslaturan Guáhan* does hereby, on behalf of
12 *I Liheslaturan Guáhan* and the people of Guam, support that the government of Guam move forward
13 to appeal the ruling of the District Court of Guam to assist in defending the rights of the native
14 inhabitants of Guam; and be it further

2017 MAR -9 PM 4:35 

1 **RESOLVED**, that the Speaker and the Legislative Secretary attest to, the
2 adoption hereof, and that copies of the same be thereafter transmitted to the Honorable
3 Elizabeth Barrett-Anderson, Attorney General of Guam; and to the Honorable Edward
4 J.B. Calvo, *I Maga'lahen Guåhan*.

DULY AND REGULARLY ADOPTED BY *I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN* ON THE ____ DAY OF MONTH YEAR.



COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature



COMMITTEE REPORT CHECKLIST

Part 1 /

RESOLUTION NO. 51-34 (LS)

RELATIVE TO SUPPORTING THAT THE GOVERNMENT OF GUAM MOVE FORWARD TO APPEAL THE RULING OF THE DISTRICT COURT OF GUAM TO ASSIST IN DEFENDING THE RIGHTS OF THE NATIVE INHABITANTS OF GUAM.

Referred to: *Vice Speaker Therese M. Terlaje*

(A) PUBLIC HEARING	(1) HEARING NOTICES SR §§ 6.04(a)(1) and 6.04(a)(2), Open Government Law (5 GCA, Ch. 8)	
	<input checked="" type="checkbox"/> (a) Five (5) working days prior (ALL Senators & ALL Media)	Date and Time of Notice: <i>3/9/17 7:15 pm</i>
	<input checked="" type="checkbox"/> (b) Forty-eight (48) hours prior (ALL Senators & ALL Media)	Date and Time of Notice: <i>3/14/17 1:33 pm</i>
	(2) Date and Time of Hearing: <i>3/17/17 9:00 am</i>	(4) HEARING WAIVED <i>or</i> by Speaker in case of emergency SR § 6.04(a)(1) <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <i>If YES:</i> Attach memo indicating WAIVER
	(3) Location: <i>Public Hearing Room, Guam Congress Bldg.</i>	



Committee Report Checklist on Resolution No. 51-34 (LS)

Part 1 /

(B) COMMITTEE REPORT	<p>(1) Committee Report filed with COR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><i>If YES:</i> Date & Time: <u>3/17/17 5:45 pm</u></p>	<p><i>If NO:</i> UNABLE TO PLACE ON SESSION AGENDA SR § 6.04(d)(1)</p>
	<p>(1)(a) Secondary CMTE Report filed with COR? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A</p> <p><i>If YES:</i> Date & Time:</p>	
(2) COMMITTEE REPORT COMPONENTS		
(a) Front Page Transmittal to Speaker		<input checked="" type="checkbox"/>
(a)(1) COR Chair Signature Line		<input checked="" type="checkbox"/>
(b) Title Page		<input checked="" type="checkbox"/>
(c) Committee Chair Memo to All Committee Members		<input checked="" type="checkbox"/>
(d) COR Referral Memorandum		<input checked="" type="checkbox"/>
(e) Notice of Public Hearing & Other Correspondence		<input checked="" type="checkbox"/>
(f) Public Hearing Agenda		<input checked="" type="checkbox"/>
(g) Public Hearing Sign-in Sheet		<input checked="" type="checkbox"/>
(h) Written Testimonies & Additional Documents		<input checked="" type="checkbox"/>
(i) Committee Vote Sheet(s)		<input type="checkbox"/>
(j) Committee Report Digest(s)		<input type="checkbox"/>
(k) Resolution History		<input checked="" type="checkbox"/>
(k)(1) Copy of Resolution as introduced		<input checked="" type="checkbox"/>
(k)(2) Copy of Bill as amended/substituted by Committee (if applicable)		<input type="checkbox"/> n/a
(n) Related News Reports (optional)		<input type="checkbox"/> n/a
(o) Miscellaneous (optional)		<input type="checkbox"/> n/a
(p) Committee Report Checklist(s)		<input checked="" type="checkbox"/>
(C) COR Action	<p><input type="checkbox"/> CMTE Report duly filed; Available for Placement on Session Agenda</p> <p><input checked="" type="checkbox"/> CMTE Report non-conforming for acceptance; Return to Committee</p>	<p style="text-align: center;">COR CHAIR (Signature, Date & Time)</p> <p style="text-align: center;"><u><i>[Signature]</i></u> <u>3/2/17</u> <u>3:11</u></p>

