



Chamorro Land Trust Commission

(Kumision Inangokkon Tano' Chamoru)

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Eddie Baza Calvo
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Commission Members

G. Pika Fejeran
Chairwoman

Joseph I. Cruz
Vice-Chairman

Amanda L.G. Santos
Commissioner

Pascual V.A. Sablan
Commissioner

(Vacant)
Commissioner

Michael J.B. Borja
Administrative Director

COMMISSION MEETING MINUTES

Department of Land Management Conference Room
3rd. Floor, ITC Building, Tamuning
Thursday, September 6, 2018; 1:02 p.m. – 5:16 p.m.

Public Notice: The *Guam Daily Post* on August 29, 2018 and September 4, 2018

I. CALL TO ORDER

Chairwoman Pika Fejeran: Calls the regular meeting of the Chamorro Land Trust Commission to order at 1:02 p.m.

II. ROLL CALL

Notation of Attendance

Present were: Chairwoman Pika Fejeran, Vice Chairman Joseph Cruz, Commissioner Amanda Santos, Commissioner Austin Duenas, Commissioner Shawntel Techaira, Legal Counsel Nicolas Toft and Administrative Director Michael Borja

Chairwoman Pika Fejeran: Acknowledges the agenda.

III. APPROVAL OF MINUTES

Chairwoman Pika Fejeran: First item on the agenda is the Approval of Minutes; states, because there is a good number of minutes that are pending approval, would like to go over those minutes. These are minutes that have been prepared and they (referring to the commission) have access to the audio files.

May 3, 2018 Regular Minutes

Motion to approve by Vice Chairman Joe Cruz, Second by Commission Member Amanda Santos

May 17, 2018 Regular Minutes

Commissioners Shawntel Techaira and Commissioner Austin Duenas missing from the roll call, all members confirm they were present.

Motion made to approve to add Commissioners Techaira and Duenas to the attendance. Second by Commissioner Amanda Santos.

June 21, 2018 Regular Minutes

Chairwoman notes, she was not present. Commissioner Austin Duenas was pointed as acting chair.

Motion to approve by Vice Chairmand Joe Cruz and Second by Austin Duenas.

August 10, 2018 Working Session Minutes

Chairwoman Fejeran inquires on the minutes, states it's a different style than what they (referring to the commission) are used to seeing.

Rev. 03/17/2017

Administrative Director Michael Borja: states all minutes have been changed to a summary form as opposed to verbatim form.

Chairwoman Pika Fejeran: Asks if the audio version is posted on website.

Administrative Director Michael Borja: Yes, the audio file can be viewed on the OPA's (Office of the Public Auditor) Website.

Chairwoman Pika Fejeran: Says okay and moves on to the approval of minutes.

Motion to Approve Augustin 10, 2018 Working Session Minutes by Vice Chairman Joe Cruz, second by Commissioner Amanda Santos.

Chairwoman Pika Fejeran: moving on to the next item on the agenda

IV. NEW BUSINESS

1. Discussion of Leases

Chairwoman Pika Fejeran: Moves on to the next item on the agenda, New Business and lists the items numbered under New Business.

Before going over the items listed as mentioned, Chairwoman Fejeran reads a statement addressed to the Administrative Director and the CLTC Staff along with the Commission Members, Assistant Attorney General Nicolas Toft and to all the CLTC Beneficiaries. In her statement, she addresses the concerns of the CLTC Beneficiaries. The Barrigada Heights controversy and the Attorney General's opinion in May of this year. She understands it must have been extremely uncomfortable for those (referring to the CLTC Lessees) whose names were published in the newspaper.

Reiterates, the five Commission members are not employees of the Chamorro Land Trust but are appointed to be members of the commission, and as commissioners their job is to ensure they act exclusively in the best interest of the beneficiaries. To ensure the CLTC is what it was made to be, what Angel Santos, the Nation Chamorro fought for decades ago. The Chamorro Land Trust was created to right the wrongs of the past, to put the Chamorro people, Y Taotao Tanu back to what they were alienated from; land that was taken away from them. With the limited resources, the Chamorro Land Trust has operated to the best of its ability and has been successful with carrying out its mission.

Up until the leases were stopped and not being issued out in May of this year, The Chamorro Land Trust has issued 2,979 leases which means 2,979 Chamorro's currently have a lease which would not have happened without the Chamorro Land Trust.

It is also stated that there are 8,620 applicants who are waiting to be issued land; only twenty five percent have been served within the last 25 years. Not knowing how much longer the waiting period will be for the rest of those on the waitlist and with new applicants who sign up every day may have loss of hope to receive land.

Chairwoman Fejeran, also states it is the loss of hope and out of desperation is what cracked the program. The leasing and the Barrigada Heights Controversy stopped the program. It has been a very stressful and difficult past few months; however, believes it was time and it had to happen.

Despite the controversies, the CLTC Commission Members along with the Administrative Director, CLTC Staff and Assistant Attorney General Nicolas Toft are working real hard to ensure there is a standard operating procedure in place and we can all move forward without a flawed system and for the best interest of all the CLTC Beneficiaries.

Further in Chairwoman Fejeran's address she explains in detail how the application was processed and turned in to a lease. It was also explained how it may seem like applicants were skipped on the waiting list; however, because of the process and applicant's contact information that are not updated, skipping applicants was not the intentions of the CLTC office, leading in to the next item on the agenda.

a. Ratification of Leases

Chairwoman Pika Fejeran: At the beginning of the program, in 1995 an applicant would apply and indicate no they don't have any land, if they didn't. The applicant is considered to be listed as Priority 1. Years later, the same applicant was able to purchase land, does the applicant now become Priority 2 on the list. Or if letters were sent to the applicant and it was returned or received but the applicant didn't respond to come into the CLTC office. What happens now, asked Chairwoman Fejeran.

Chairwoman Pika Fejeran: asks the commission for their thoughts.

Commissioner Shawntel Techaira: states there should be some kind of modification in to the policy or the process.

[Discussion ensues]

Chairwoman Pika Fejeran: states we as a commission have to decide to find a way to move these leases out of the voidable category and ratify them.

Chairwoman Pika Fejeran: asks Assistant Attorney General Nicolas Toft if it is right to say the leases that we (CLTC) have may be found legal because of the documentation we (referring to CLTC) have are legitimate. But the awarding of leases did not conform according to the law and the criteria, does that mean the leases can be categorized legal nonconforming?

Assistant Attorney General Nicolas Toft: responding to Chairwoman Fejeran, Correct.

Chairwoman Pika Fejeran: asks, If legal nonconforming, what does that mean for us (referring to CLTC)?

Assistant Attorney General Nicolas Toft: responding to Chairwoman Fejeran's question, it depends on what you (referring to the commission) want to identify as legal nonconforming to the extent of those (leases) you don't want to ratify. The main ones, are the ones that are the early leases that are noncompliance, those that were issued leases and who already have land, contrary to the rules said. The first series of applicants who applied, have all supporting documents, did not own land and was issued a lease, those are okay to ratify.

If you (the CLTC Commission) are going to the legislature with all the other concerns, should bring up the priority situation. Most of them have ambiguity and it doesn't matter how it's interpreted. It is not entirely clear, how to handle the priority list. The rules are not detailed enough to make a decision.

[Discussion ensues]

After thorough discussion and questions raised, Chairwoman Pika Fejeran, Commission Members and Assistant Attorney General Nicolas Toft reach an agreement in regards to which leases should be ratified.

Motion to request the Guam Legislature to ratify the following leases

- i. 1995 Original Applicants with Leases
- ii. Transferred Only Leases
- iii. 1996 and After Applicants with Leases
- iv. All APPROVED by unanimous vote.

A resolution with the exhibit of the listing of leases are to be prepared and transmitted to the Guam Legislature.

Chairwoman Pika Fejeran: next item on the agenda

b. Ratification of Switched Leases

- i. Resolution 2018-10

The CLT staff presented a table and individual staff reports for each of the 102 leases derived from the switching of application date and time to another applicant, or transfer of a lease that was not in accordance with the law. The Attorney General of Guam had issued in May the opinion that leases that were switched or transferred outside the law to be “null and void” because there are no provisions in Title 21, Guam Code Annotated, Chapter 75, or The Senator Paul Bordallo Rules and Regulations for the Chamorro Land Trust Commission, enacted as Public Law-23-8, to justify the action.

Review of those 102 “null and void” leases found that, the act of allowing applicants to switch application date and time with another applicant has existed since 1997. The Commission’s review of these “null and void” switched leases found the predominant relationship between the transferring parties was a close relative such as a child, spouse, grandchild, and the like; within the second degree of consanguinity.

The commission also discussed that original applicants who switched their application date and time did so to assist a family member to prevent homelessness; to allow the transferee to build a home when the transferor was not able; because of the inability of the transferor to adequately use the and due age or illness; or, to help a family member in need whatever the reason.

The commission determined that the reasons for these switches seem rational and compassionate. They are ideals instilled in our Chamorro culture.

The commission decided that while these switched leases make up 3% of the total, they must, nevertheless, be allowed to continue and only the Legislature can authorize them. The need to allow these compassionate switches will also require changes to the CLTC’s governing statutes.

After thorough discussion and questions raised, Chairwoman Pika Fejeran, Commission Members and Assistant Attorney General Nicolas Toft reach an agreement.

A motion was made by Vice Chairman Joe Cruz to submit the 102 leases otherwise known as the Switched list to the legislature for ratification.

The motion was second by Commissioner Shawntel Techaira. All in favor by unanimous vote.

2. Reports on Public Comments

Chairwoman Pika Fejeran: calls the first case of Public Comments which is for Patricia Duenas.

Chairwoman Pika Fejeran: states there is a staff report to be reviewed by the Commission. There is a lease, a residential lease.

Patricia Duenas: interrupts, Chairwoman Fejeran and states her lease is not supposed to be a residential lease. Want's her lease fixed, her property given back to her that was taken away and given to another family.

Chairwoman Pika Fejeran: informs Patricia Duenas that the Commission is going to view her file including the staff report before jumping to any details of what is being asked for.

Patricia Duenas: again explains the situation and expresses disappointment with a former Land Agent, Joffre Aguon.

Chairwoman Fejeran getting clarification on the Agriculture Lease, the property behind your (referring to Patricia Duenas) in Dededo is an Arruendo. And you (referring to Patricia Duenas) also applied for residential.

Patricia Duenas: responding to Chairwoman Fejeran, correct.

Land Agent II Jhoana Casem: chimes in to explain. Originally, she (referring to Patricia Duenas) was given Tract 9210, which was in Yigo. That was declined because her cousin who took over 9210. Based on our (CLTC Staff) findings, the lot behind her GHURA house is her Arruendo and that is how she received the agriculture. At that time, when I (Jhoana) took over her file, Patricia Duenas had already given up her 9210 as a decline to keep the Agriculture behind her home.

Patricia Duenas: interrupts Land Agent II Jhoana Casem as she tries to finish explaining to the CLTC Commission her findings.

Administrative Director Michael Borja: asks Patricia Duenas allow the Commissioners to ask their questions and address her issue.

[Discussion ensues]

Chairwoman Pika Fejeran: still reviewing the file for Patricia Duenas and states she (Patricia Duenas) does have a Yigo lot that was declined. Also states, the documentation that is in the file is what they (CLTC Commission and CLTC Staff) have to go by and cannot deviate from it.

Chairwoman Pika Fejeran: asks the commission if they want to make a decision on any of this (referring to everything they have just reviewed and heard) would like to move on the issue, make a motion or take it under advisement.

Commission Members: asks questions as far as if they make a decision to satisfy Patricia Duenas, the other surrounding land / lease owners will be affected and states there are other stake holders as well that they need to consider.

Chairwoman Pika Fejeran: refers to Assistant Attorney General Nicolas Toft for his advice.

Assistant Attorney General Nicols Toft: In response to Chairwoman Fejeran, the concern is, if the surrounding land / lease owners' property is going to be reduced, they have a right for an administrative hearing. There is also a survey cost to consider.

[Discussion ensues]

Chairwoman Pika Fejeran: states a motion has been made to leave the property as is, second by Commissioner Austin Duenas.

Chairwoman Pika Fejeran: asks for any further discussion in regards to Patricia Duenas and or the motion that was just made.

Commission Members: none

Chairwoman Pika Fejeran: ask Patricia Duenas if she heard the motion that was made.

Patricia Duenas: responding to Chairwoman Fejeran, no.

Chairwoman Pika Fejeran: the motion that was made that was passed unanimously is to leave your (referring to Patricia Duenas) property as it is today.

Chairwoman Pika Fejeran: calling Lucia G. Taitano for Public Comment and reviews the staff report. Concern from previous meeting is requesting to have her property tax penalties and fees to be waived.

Lucia G. Taitano: Explains with limited income and the amount of acreage that was returned back to CLTC feels the taxes owed is too much and cannot afford to pay those fees to include the interest.

Chairwoman Pika Fejeran: reviews the lease and the tax statement

Land Agent I John Gumataotao: explains the tax amount on the statement is for Tax Year 2006 through 2016, including interest. He also reads a separate tax statement for Tax Year 2017.

[Discussion ensues]

Administrative Director Michael Borja: states you (generally speaking) can only waive the interest and penalties but not the actual amount of taxed owed.

Clarification is made the statement in the file is doesn't include the penalty fees, just the interest.

Lucia G. Taitano: asks who is responsible for sending out the notices. A notice was never received, it was only noticed on the newspaper.

Administrative Director Michael Borja: responding to the request, makes it clear that the tax fees are not coming from Chamorro Land Trust or Dept. of Land Management. It is coming from the Dept. of Revenue and Taxation.

Lucia G. Taitano: again, asks how it can (referring to the tax fees) be waived.

Chairwoman Pika Fejeran: in response to Lucia G. Taitano's question, suggested to write a letter addressed to the commission explaining the limited income and the hardship so the Commissioners can review and decide.

Administrative Director Michael Borja and Chairwoman Fejeran both respond and reconfirm to Lucia G. Taitano that it is only the penalties and the interest that can be waived. However, a letter or some kind of documentation that proves there is financial hardship, that is the only way to justify the request.

Lucia G. Taitano: acknowledges what she was informed.

Chairwoman Pika Fejeran: Calls Juan G. Garcia, reviews the staff report. States Glenda Marie Garcia, husband (referring to Juan G. Garcia) passed away and named Aiden J. Babauta, his nephew as a beneficiary.

A brief history to the issue: Juan G. Garcia, the lessee passed away, named his son as a beneficiary who also passed away.

Glenda is not able to assume the lease because of her lineage not being born on Guam before August 1, 1950, although she (Glenda) was born and raised on Guam.

Another Beneficiary was named which is the nephew, Aiden J. Babauta but he is a minor.

Glenda Garcia: asks if it's possible to put the lease under someone else since she (referring to Glenda) doesn't qualify.

Chairwoman Pika Fejeran: asks if that is Aiden J. Babauta.

Glenda Garcia: replies to Chairwoman Fejeran's question, no, it is not. Aiden is the baby. Mentions her she would like to put it under her niece's name and she is an adult.

Chairwoman Fejeran: then inquires how it will work, is that considered a transfer, a switch?

Administrative Director Michael Borja: states there is a section in the law, P.L. 23-38, Section 9.2 that says you (referring to the Commission) can make the decision and designate who will be able to take over the lease as long as the individual qualifies.

Chairwoman Pika Fejeran: asks Glenda Garcia who is the niece that she is asking to assume the lease.

Glenda Garcia: in response to Chairwoman Fejeran's question, it is my niece, Sabrina Ayuyu.

Chairwoman Pika Fejeran: recommendation to approve Sabrina Ayuyu as the beneficiary for Juan Garcia, provided all supporting documents are provided.

Administrative Director Michael Borja: informs Glenda Garcia that she will need to come into the CLTC Office, with her niece Sabrina Ayuyu fill out the application and provide the qualifying documents such as her birth certificate and her (referring to Sabrina Ayuyu) parent's birth certificates. Also, emphasizes they (Sabrina's Parents) have to be born before August 1, 1950.

Glenda Garcia: agrees her and her niece will go into CLTC Office.

Land Administrator Margarita Borja: asks, Glenda Garcia if she is aware of an SBA loan on the house, a disaster loan.

Glenda Garcia: in response to Land Administrator Margarita Borja's question, no, she is not aware.

Administrative Director Michael Borja: informs Glenda Garcia, before anything can be done, she (referring to Glenda Garcia) needs to come into the office and settle the delinquent SBA loan that was obtained by Juan Garcia before he passed away.

Chairwoman Pika Fejeran: Calls on the next public comment, Paul Blas. States, the applicant is deceased which is Paul Blas. He named his daughter, Vanessa Blas as the designated beneficiary. Prior to naming his daughter, it was his wife Therese Blas who was the designated beneficiary but then CLTC received a notarized letter requesting to remove Therese Blas and named Vanessa Blas.

Based on the staff report, it is a request to transfer the current lease to the designated beneficiary.

Therese Blas: states in 2004 her (Therese Blas) and Paul went into the Chamorro Land Trust Office to add her on to the lease; however, that was not done. There was a letter, a notarized letter that was sent into the CLTC office to remove me (Therese Blas) and add Vanessa Blas.

Land Administrator Margarita Borja: explains there was a form to add spouse onto the lease, it was approved but the lease was not completed with the spouse. During that time, he (referring to Paul Blas) was incarcerated. CLTC added Therese to the data base but not the lease. During the time Paul Blas was incarcerated, CLTC received a letter to have Therese Blas removed and it was approved by the Trust, without advising her (Therese Blas) of the removal.

[Discussion ensues]

Chairwoman Pika Fejeran: based on Legal Council's review, the decision would be to have Vanessa Blas as the designated beneficiary.

Extends apologies to Therese Blas and informs her that based on the documents in the file and CLTC would have to follow that.

Assistant Attorney General Nicolas Toft: states the initial application itself listed Vanessa Blas as the beneficiary as well.

Chairwoman Pika Fejeran: states the next person up is Sean Franquez, however, he is not present and is rescheduled for the next meeting.

Chairwoman Pika Fejeran: States the next meeting is scheduled for September 20, 2018. Asked the Commissioners if they have any comments

Public Comments is not placed on the agenda; however, a comment from the public pleaded to be heard and asked Chairwoman Fejeran for a few minutes of her time.

Chairwoman Pika Fejeran and the Commissioners agreed to hear from her, Rita Santos Cruz.

Rita Santos Cruz: indicated there is a conflict of her land lease with another lessee and asked if the matter could be looked into.

Chairwoman Pika Fejeran: requests for a staff report to be done for Rita Santos Cruz and to be placed on the agenda for the next meeting scheduled on September 20, 2018.

Chairwoman Pika Fejeran: asks again for any other comments from the commissioners.

Commission Members: None at this time

Chairwoman Pika Fejeran: adjourns the meeting at 5:16 p.m.

