

SUMMARY

OF

LAND ACQUISITION PRESENTATION

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The United States Government has stated on several occasions that the land requirements in its proposals are a serious and perhaps an emotional matter that must be considered by both sides as highly sensitive. Because of the realization of this fact, we can appreciate and fully understand the reluctance on behalf of the Commission to make any commitments that would not be consistent with the public attitudes in this regard.

Public attitudes regarding land ownership, however, is a sensitive matter all over the world. The Public Interest, or that interest that is directed to the common good, requires the use of land and this also must be recognized and reconciled with the individual attitudes concerning land. Land for streets, power lines, schools, police and governmental functions must be provided in any society if these functions are to exist. This is also true for defense. The very object of defense is to protect and preserve the social, economic and political systems the people, as a whole, have chosen for themselves.

The land requirements for defense in this area are those that are considered to meet the minimum areas necessary to permit the orderly and efficient conduct of the defense mission. The presentation did not deal with the specifics of these requirements, but the manner and method in which they are proposed to be acquired.

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The underlying consideration in any land acquisition by the Department of Defense is the legal authority which is derived from Congress. We must, therefore, bear in mind that the Congress of the United States will exercise its judgment concerning any commitments that we may agree to propose for approval. For this reason we look to existing policy and law and to past precedents to formulate a proposal that will be acceptable. The proposals of the Department of Defense is prepared and reviewed by persons who are recognized as technical experts in this specialty of law and procedure, and who are intimately familiar with the Congressional process and attitudes. The positions stated in the presentation and throughout these negotiations are those that are considered just, reasonable and most probably acceptable to the final authorizing authority.

The United States, like any other entity or private individual, looks to receive what is paid for. In our land acquisition process we make a sincere effort to determine what is required, how much it is worth, and to acquire the land for that price. We do not bargain or "horse trade." Nothing less than just and reasonable compensation will be paid unless a gift is intended. Our offers are based upon our application of standard and acceptable professional techniques to determine land value that have been tested in the Federal Courts over the years and have been found to be just.

We fully realize the circumstances existing in the Marianas today. The real estate market and limitations on land ownership and development are not the same as in the United States. We have not attempted to change these circumstances to fit the usual evaluation processes but

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have modified the process to fit the local circumstances.

The usual evaluation or appraisal process should be explained in general terms to understand the basis of our approach to value. The appraisal process is an orderly procedure by which a land value problem is defined, the work necessary to solve the problem is planned and the necessary data involved is acquired, classified, analyzed, and interpreted into a supportable estimate of value. The necessary data relates to arms length transactions in the local market as evidenced by recorded property transfers. This data is first confirmed between the buyer and the seller in order to determine the actual compensation paid and whether or not any special consideration is attached to the sale. The data is further analyzed to determine whether it is comparable to the property appraised, whether it is remote in time or location or influenced by other markets.

Project sales and sales that are recorded to indicate a false market are not to be considered in the process. Fair market value is what needs to be determined. This is usually defined as the amount in cash or other terms reasonably equivalent to cash for which, in all probability, the property would be sold by an informed owner who is willing but not obligated to sell to an informed person who desires but is not obligated to buy. It is only that value which is capable of transfer from owner to owner and no consideration can be given to any special value of the property to a particular owner or buyer. This precludes such items as sentimental attachment or hypothetical future events.

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Elements of value that depend upon future events or a combination of occurrences which, while in the realm of possibility cannot be shown to be reasonably probable, must be excluded from the appraiser's consideration. Land value cannot be supported by possibilities that are speculative or contingent upon contrived situations in an attempt to determine value.

The Government of the United States is expected to be a prudent and informed buyer. Since a reasonable buyer would not be expected to pay for value which is peculiar to him at an enhanced price which his demand alone has created, no allowance for the enhanced value of the property attributed to or resulting from the public use or purpose for which the land is being acquired is considered.

As stated above, the appraisal process is effective only when an operating market exists. All land value problems in Micronesia suffer from the lack of market indicators and a measurable economic base. The sparse land value indicators in the areas reflect economies with little, if any, significant real estate activity. In cases where little or no sales exist, the acceptable appraisal process usually results in very low value levels. Reasonable valuations under such circumstances are best determined by experienced professional real estate personnel who can arrive at an informed estimate of value supported by their analysis of the meager data and their singular or collective experiences.

Market data for more developed economies, such as Guam, would provide a totally fictitious base. There is no way to make the many required

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adjustments to such data without entering into a process based on sheer speculation. Should market data be used from other areas it must relate to islands that could really be termed comparable in size, population, economy, culture and topography. If other market areas used for comparison purposes are remote in any of the above factors, it is really not comparable. To try to contrive a degree of comparability by adjustments to the data, destroys the data itself and the unsupported adjustments become a fictitious base for the appraisal. This, of course, is not acceptable.

Essentially, the evaluation of the real estate in this case is based upon all the available data with reference to other market areas such as Guam to determine the degree of comparability and also considering the quantum of title that is to be acquired. Limitations on title affect the market value. Lands dedicated to public uses and subject to easements or other restrictions on title relative to those uses may have only a nominal value. In this particular case the retention areas create an unusual problem that was considered in the evaluation process.

The first step of our evaluation began with the gathering of data from the public records. Historical research and reference to reports and studies relative to land and land use were analyzed as supportive evidence of our land classifications and evaluations. The various areas to be acquired were classified as to their highest and best uses and market data on similar uses in comparable areas was referred to. On the basis of the data, research and investigations we have considered

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the lands to be acquired to possess a present or reasonably potential market for the following uses:

1. Village lots (residential)
2. Commercial
3. Resort Potential
4. Rural Land (Conservation Areas)
5. Rural Land (Agricultural)
6. Suburban
7. Industrial

The suburban category referred to land that was near village areas but lacks urban or village characteristics and was not considered to possess a foreseeable commercial potential.

The land transactions on Saipan and Tinian were reviewed and value conclusions were postulated. This resulted in a very low value which proved what we suspected in the onset of the process. For example, the standard rental rate on both Saipan and Tinian for agricultural or grazing land is \$2.40 per hectare per year. At a 6% rental return a value of \$40.00 per hectare is indicated which is obviously not a true reflection of its real worth, but an interim use at an arbitrary price not related to true value. Hotel leases, industrial leases and other sales were similarly analyzed. Legal premises as to the limitations on title were developed and applied to the specific areas such as retention lands.

The approach and classifications were reviewed to determine the reasonableness of the method used and the support for the value conclusions

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in the data that was gathered. Finally, comparisons were made with similarly difficult evaluation problems in other area throughout the world in which we have had some prior experience to determine whether some alternative approach could produce a superior result.

The DOD land requirements were reviewed to determine if it would be appropriate to acquire less than fee title. Considering the sizeable U. S. Government investment that is proposed, the indefinite nature of the requirement, a fee acquisition was definitely indicated. Existing policy regarding acquisition provides for fee title if in a project requiring construction a ground lease is proposed but the rental to be paid during the proposed period of occupancy exceeds 50% of the fee value. In the case of easements, if the cost of an easement approaches 75% of the fee value, then fee title will be acquired. These rules are based upon sound business and economic reasons. As stated previously, the U. S., like anyone else, expects its agents to acquire and obtain what is paid for. A lease in this case would be contrary to existing policy and regulations and would be very difficult to justify in our own minds as well as before the Congress of the United States. We could not support any acquisition less than fee title.

The land payment must relate to the land itself and cannot include payments for matters not involved in the determination of land values.

If other payments or funds are requested for the legitimate requirements of the Commonwealth, they should be identified and justified for what they actually represent. The payment for land cannot be increased

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to compensate the Commonwealth for matters, however justifiable, that are not a part of the land value. The U. S. G. will not pay for past occupancy or use of the land and for rights it has previously acquired.

In a fee purchase, the price is paid in full when the title is transferred. We have considered installment payments and see no basis for this procedure. In the authorization process the total cost of the land will be presented to the U.S. Congress and the total cost will be requested in the budget and appropriations.

Since the entire sum will be appropriated, a full payment could be made and the new government can apply those funds for whatever purpose it desires. The unobligated funds could be invested by the new government which would earn interest at a rate in excess of what the U.S. Government could pay. In other words, we believe that providing for an installment purchase would in effect put the U.S.G. in the position of a Banker for the new Commonwealth and we also believe that the Commonwealth could do better by investing its funds for itself.

As to the acquisition procedure, we presume that the new Commonwealth would acquire the private interests and convey all of the land for our requirements as one transaction. We are responsive to considering any alternative to this method. As to the M.D.C. lease we believe that this is a matter that must be closely coordinated between the parties since the lease covers areas to be acquired as well as other public lands.

At the conclusion of the above presentations questions were asked and answered and the meeting adjourned.

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