

~~810-170~~

ROY MARKON
NAVFACENGCOM
Tel. No. 325-0437

POSITION PAPER

Land Acquisition - Marianas Islands

Introduction:

Many previous Talking Papers, Point Papers, Position Papers and similar memoranda were prepared on this subject. This Position Paper will not repeat the previous arguments but will incorporate previous submissions by reference.

Background:

Throughout the negotiations and planning, the issue of land acquisition has revealed itself as most sensitive. Notwithstanding this sensitivity on the part of the Marianas Delegation, it must be constantly kept in mind that there is also a sensitivity on the part of the Congress regarding this issue. In this respect, reference is made specifically to the question of purchase vs. lease. Congress has provided money for the acquisition of indefinite use rights for the retention areas. In the Congressional hearings, there are indications that this money was provided for the acquisition of fee title. If we currently possessed valid indefinite use rights, it would be very difficult, if not impossible, to justify a lease in lieu of purchase. An argument can be made that there were residual rights that are being presently acquired in case of a fee purchase. This may satisfy the Congress. This argument, however, cannot be made in the event of a lease.

Authority:

The leasing authority available to the Federal government is limited. The Defense Department policy of construction on leased land is a further limitation. Serious questions can be encountered in areas such as concurrent jurisdiction or the right and the ability to provide adequate security and control of the activities in the areas.

Position:

The question of a lease is so unacceptable to the Department of Defense that it would serve no purpose to discuss the merits of a lump sum payment or annual payments. This matter was covered in previous Talking Papers. The position of the negotiators should be firm in the acquisition of fee title with a one-time payment. The previously submitted estimate of 10% per year for a lease in lieu of

a lump sum is not firm. This percentage would probably decline due to the economic conditions. The return from a land use would be less today than last year. The percentage may be reduced to 7 1/2 or 8 based upon present conditions. Cash will return a higher yield than land at the present time.

Compensation:

The price determination has also been covered to a great extent in previous Point Papers. The estimated values determined by the Naval Facilities Engineering Command Agent represents top dollar prices. There is no reason or justification to exceed the values indicated. All of the data available, prior sales, potential market, analysis of compensation for other island areas throughout the world have been made. All of the studies concluded that the prices are fair and reasonable and, to a certain extent, generous.

Appraisal:

The question of an appraisal may arise. It must be remembered that an appraisal of this land would necessarily be based on the same information and data that has been reviewed by the Naval Facilities Engineering Command. Based on U.S. experience in similar cases, it is highly unlikely that an appraiser would be able to develop an acceptable value conclusion different from that which has been indicated. In all probability his value conclusions would be less. It is important to remember that an appraisal is not an arbitration process. It would serve neither the U.S. Government nor the Marianas to abrogate their own abilities and responsibilities to arrive at a reasonable price for the land to an outsider. An appraiser would work under precise legal instructions. There can be no delegation of the responsibility to determine adequate price to a less experienced outside source. In short, the appraisal would be a time consuming, expensive proposition that would produce more problems than it would solve.

Negotiations:

The art of negotiations concerning land and land values cannot be orchestrated. The skill of the negotiator is the most important and effective way to reach the desired conclusions. The objective would be to reach an agreement on price that is fair and reasonable supported by analysis of similar transactions and acceptable to the Congress. The price to be paid must relate to the value received and should not contain sums for the privilege to be there.

The negotiations should be conducted with an understanding of the effect of the precedents that may be established. What happens

in the Marianas can materially affect Department of Defense land problems in Guam, Puerto Rico, the other areas in Micronesia and other areas. Under the guidelines developed by the Department of Defense in this paper and other memoranda, the precedent would be beneficial.

Enclosure: Land Values

SUGGESTED OPENING FIGURES FOR TYPES OF LAND SHOWN

Tinian

	<u>Value/Acre</u>	<u>No. Acres</u>	<u>Total</u>
Retention Land	\$ 300	8,452	\$2,535,600
Public Land	800	8,223	6,578,400
Agricultural/Village	2,000	700	1,400,000
Commercial	3,500	<u>100</u>	<u>350,000</u>
		SUBTOTAL 17,475	\$10,864,000

Saipan

Isley Field	\$ 1,000	482	\$ 482,000
Tanapag Harbor	1,500	<u>195</u>	<u>292,500</u>
		SUBTOTAL 677	\$ 774,500

<u>Farallon de Medinilla</u>	\$ 100	<u>229</u>	\$ <u>22,900</u>
		SUBTOTAL 229	\$ <u>22,900</u>

TOTAL 18,381 ac. \$11,660,900

07 ■ 431404