

for Mike Helfer

COMMONWEALTH OF THE PACIFIC ISLANDS
OFFICE OF THE HIGH COMMISSIONER
SAIPAN, MARIANAS ISLANDS 96950

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November 4, 1974

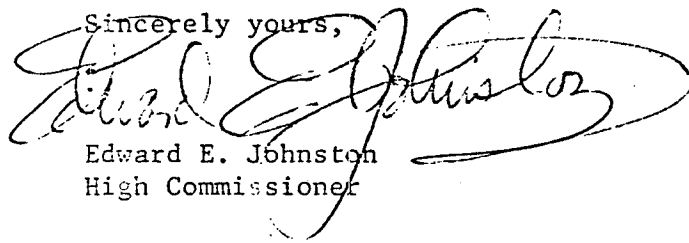
Mr. Stanley S. Carpenter
Director
Office of Territorial Affairs
Department of the Interior
Washington, D.C. 20240

Dear Mr. Carpenter:

Enclosed is a copy of District Administrator Ada's message on disapproval of the Marianas Land Act No. 1-1974, as amended, which was received by this headquarters.

We thought you might desire this information for your files.

Sincerely yours,



Edward E. Johnston
High Commissioner

Enclosure

October 25, 1974

The Honorable Vicente H. Santos
President, Mariana Islands District Legislatura
Saipan, Mariana Islands 96950

Dear Mr. President:

It is with regret that I find I must disapprove Act No. 1-1974 (as amended) of the Marianas District Legislatura, entitled "An act relativa to returning all public lands to the people of the Mariana Islands District and to designate the District Administrator to receive, hold and administer the public lands as prescribed by the Mariana Islands District Legislatura."

At the same time I wish to convey to the District Legislatura my sincere feeling of gratitude for the trust and confidence placed in me in having designated me, as District Administrator, to be the trustee of our precious lands. Were it not for the fact that substantial legal problems inherent in the act in the form presented exist, I would have been indeed pleased to have accepted this honored trust.

Some of the problems I find inherent in the act are as follows.

1. The District Administrator is not a legal entity, in his official capacity, qualified pursuant to the United States Land Policy Statement of 1973, to receive, hold and manage the public land. He cannot officially bring suit or be sued under current law except by and through the Trust Territory Government.
2. The act does not include a provision for funding the management of the public land. If a trustee is to act independently of Trust Territory Government policy and direction he must also be independent of its funding constraints.
3. The act beclouds title to public lands by prohibiting lease, sale, or disposal of lands to which claims disputes exist without defining claims disputes. The patent effect could be to forestall and severely handicap efficient public land management if the trustee had knowledge of an adverse claim, even if such claim should be frivolous or with merit, until decided adversely to the claimant in a fair hearing and until all rights of appeal should have been exhausted. Such a provision might effectively require holding title to many parcels of land in complete

The Honorable Vicente S. Santos
October 25, 1974
Page 2

abeyance for a number of years. Possible effects could easily be poor land management, loss of income from the public domain, and serious difficulty in attaining a desired new political status within the presently visualized near future. Had the act permitted transfer subject to valid claims, many of these problems would have been solved.

4. The fair hearing required by Section I before lease, sale, or disposal could possibly be later interpreted to mandate reopening of claims already res judicata pursuant to current law. Such an effect could be violative of Section 5, Title I, Trust Territory Code, in that it could conceivably impair contractual obligations in some instances and constitute ex post facto legislation in other instances.

Sincerely,

Francisco C. Ada
District Administrator
Mariana Islands District

cc: Commissioner /
Dir. of Public Affairs (w/attach)
Dist. Land Management (w/attach)
Asst. Dir. of Public Affairs (w/attach)
Dist. Attorney, Marianas (w/attach)