

MARIANAS V - FIFTH WORKING SESSION - 12-12-74

Military Land--Acquisition and Price

I. Background

- During Joint Land Committee meetings considerable time and effort spent on discussion of method of acquisition, method of payment, means of determining fair market value and price, as these apply to present U.S. military land requirements in the Marianas.
- During the August meetings the U.S. representatives on the land committee presented our analysis of these subjects in detail and made a tentative "offer".
- MPSC representatives asked to have more time to consider the matter and to consult their own "experts" on the subject.
- In September in Washington, the MPSC's adviser, Mr. Seldin, presented his analysis and made a preliminary estimate of what he would consider to be a fair market value of the fee title for some--but not all--of the land based on that analysis.
- Just prior to the departure of the MPSC representatives for Saipan, the U.S. representatives presented a detailed critique of Mr. Seldin's analysis, noting in conclusion that while U.S. experts differed in many aspects of his presentation, our own analysis based on his methodology would lead to substantially smaller figures in many critical areas and an overall figure of substantially less than one-third of the total suggested by Mr. Seldin of approximately \$34 million.
- U.S. representatives requested that the MPSC review the entire question on their return to Saipan and the end of September and provide us with a "counter-offer" as soon as possible.

- On November 26 on the eve of our departure MPSC counsel presented us with the MPSC's counter-offer, which appears to be based almost entirely on Mr. Seldin's original analysis, with a total figure substantially the same as his original estimate and with no further substantive justifications.
- U.S. would now like to comment in detail on this counter offer, despite the fact that MPSC members of the land committee have heard much of this before; but before this believe it would be useful to review briefly the considerations which underlie the basic U.S. position, since it is from this basis that we offer our critique.

II. Basic elements of U.S. position

- From U.S. standpoint controlling factor is fact that the Congress of the United States will be the ultimate approval authority for the U.S. Government to retain or acquire lands to meet its defense requirements and must also appropriate funds for the approved acquisitions.
- Underlying any land acquisition by the U.S. Government is the legal authority to acquire and pay for land endorsed by an Act of Congress.
- We must not overlook or treat too lightly the fact that the Congress of the United States will exercise its judgment in any arrangements 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.
- These policies and procedures in reality are rather basic and simple.
- The U.S. like any other entity is expected to receive what it pays for.
- Congress expects the Federal Agencies in all cases to make a sincere effort to determine what is required, how much it is worth and to acquire the land at that price.

- Congressional hearings test not only that sincerity but also all aspects of any proposed acquisition.
- Our laws preclude United States agencies from paying less than just compensation.
- Prices or compensation are recommended by our experts who apply the most modern acceptable professional techniques to determine value.
- These procedures were and continue to be tested in U.S. Federal Courts to insure fairness and that justice is served.
- The evaluation or appraisal process is analytical--using relevant data which is analyzed and interpreted objectively to reach a supportable estimate of value.
- Fair market value is the objective.
- This has been defined as a price 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 that is capable of being transferred from owner to buyer that is to be considered.
- The identities of the individuals are not considered nor are values predicated upon one's personal projection of hypothetical future events.
- Elements that depend upon future events or combinations of events in each particular case must be reasonably probable or they must be excluded as speculative.
- Zoning, land restrictions, other public policies concerning land use must also be considered.
- The United States Government is expected to be prudent as a buyer just as you or I would.

- Do not expect Government to pay for values its demand alone has created or for what it already possesses

III. U.S. Difficulties with Seldin Analysis

- Before going specifically to the MPSC counter-offer would like to repeat our basic difficulties with the analysis made for you by Mr. Seldin.
- We did not object to Mr. Seldin's method of approach which was to analyze the proposed usage of land in the three locations. It was his predictions of future events which have no support in the present day market that we could not accept.
- Our analysis of his method of approach led us to a different conclusion.
- Using the same data and techniques employed by your consultant our experts reached a radically smaller total price, and there were also some differences in the application of the data to the particular pieces of land in question.
- For example, Mr. Seldin predicts that every acre of Tanapag Harbor would be developed while we, on the other hand, know that much of this land will not be available for sale because of the plans to have a public park in this area. For this he wants to charge us \$100,000 an acre-for hotels.
- Seldin's total acreages set aside for industrial development exceed those of Guam today by several times in area and this industry is also not identified.
- Seldin seems to think this development will take place only in the military areas. It seems to us that Saipan and Tinian can easily accommodate future industrial, commercial and residential development in the areas not affected by the military requirement, and you will in no way be

- denied any reasonable opportunity for economic growth by the military requirements. (We do not allow for speculation).
- Most important, Mr. Seldin did not take sufficiently into account that the land on Saipan and much of the land on Tinian is military retention land in which the U.S. Government has previously purchased rights for military purposes.
 - Lastly, the estimate is predicated on an open market in which any one may buy land. Local attitudes regarding restraints on alienation were not reflected in his approach.
 - Our critique of the Seldin presentation--remember using his own approach--resulted in a price for the land that was actually less than our initial offer of August.
 - We believe a review by any other expert or those experts on the Congressional Committee Staffs would reach a similar result with respect to justifiable evidence to support the Seldin conclusions.

IV. Critique of Marianas Counter-Offer

A. Land valuations

- Our analysis of the MPSC counter-offer of November 26 indicates that it differs from the original Seldin presentation, unfortunately, only in three areas so far as land values are concerned (Isely and two on Tinian), although it does add a value for Parallon de Medinilla.
- Therefore, everything which I have said earlier continues to apply in most respects to the MPSC counter-offer; but more specifically:
 - Saipan
 - Tanapag Harbor
 - The figures in the MPSC counter-offer are slightly higher than those in the Seldin analysis, and like the Seldin analysis the figures lack support in any detail.

- The figures presume the complete development of the acreage in question by sale on the open market.
- It makes no allowance for any public use or any public ownership or enjoyment (We are talking here about using almost 80% of the area for a public park and leasing back to you at \$1 an acre the remaining 20% to rent out).
- It fails to take into any account the availability of existing financing or labor development costs and lacks economic justification.
- Isely Field
 - Here a major reduction of \$2.2 million was made with a change in land use classification.
 - But even with this reduction the price cannot be justified, since the counter-offer neglects to exclude from the land use classification those areas adjacent to the runway which are precluded from development of any sort because of FAA airport operational criteria. (750 feet from center line of runway can't be used for anything).
 - The treatment of land use particularly in the industrial category neglects to mention the total acreages throughout the Marianna that may be developed for industrial uses and again does not refer to the type of industry.
 - There would appear to be much better suited land on the north side of the airfield and in nearby areas that the likelihood of industrial use of even 50 acres is highly speculative. The U.S. suggested unit price was slightly higher than the claim and the classification of 50 acres as industrial potential is very generous under the circumstances.
 - Again you will be the ones who will get the economic benefit of renting it out under our lease-back to you.

- If we closed our eyes to the question of retention lands and used the same approach used in your counter-offer we would arrive at a totally different figure: Based on the hard data available on Guam and within the TTPI our results produced a figure of \$1,875,000 for Tanapag and \$879,600 for Isely Field.

Tinian

- On Tinian land classification and unit values were adjusted only slightly in the counter-offer under the Agricultural heading, and two new classifications of construction and undeveloped land were added, which increases the previous total by 4,000 acres and adds almost \$2 million to the total, raising it to \$25,165,000.
- Our figure in contrast was \$7,775,000, or a substantial difference of \$17,390,000.
- But while this difference is large there are areas in which we can agree.
- We can agree to the estimate of value for 4,000 acres of land designated as construction land and undeveloped land.
- We can also agree on the value of \$3,000,000 for 300 acres of resort land.
- Agricultural use land of 10,500 acres valued by Mr. Seldin at \$5,250,000 was raised in the counter-offer to \$6,765,000 while our estimate was \$2,600,000 assuming that the land is unencumbered.
- In this area and in the projected commercial area of 400 acres we may be able to get closer together.
- The main problem results from your prediction that 500 acres of land on Tinian in the vicinity of the harbor and the airport will

have an immediate demand which will result in a present value of \$9,000,000.

- This not only disregards the encumbrance problem but defies economic rationalizations, since our analysis using Guam as a base and not considering the cloud on title produced a rather generous value of \$1,500,000.

- Value of military retention lands.

Do not propose to belabor point beyond what has been said many times before.

With respect to counter offer, however, wish to note that the adjustment for military retention lands made in your counter-offer in our view has no economic basis.

- At best it is a recognition by the MTCO that the U.S. has rights in these areas.

- If the U.S. held a leasehold in the retention areas the proper method to value this right would be to measure the bonus value of the lease.

- The bonus value of the lease is the difference between what is paid (contract rent) and the economic rent.

- Using the figures provided by the Marianas Delegation this Bonus value for six years equals \$8,156,307 as we figure it instead of the \$60,000 indicated in the counter-offer.

Finally Congressional attitudes regarding this military retention issue are very important. We cannot justify to Congress the abandonment of rights in areas which have been paid for once.

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- Summary

- By way of summary on this issue, let me say we consider the price asked for Tanapag and Isely to be so high as to make them almost prohibitively expensive. The U.S. can't afford them at that price.
- We also have a fundamental difference of opinion with your adviser's on the industrial potential of Tinian or more particularly that portion of Tinian to be acquired by the U.S.
- Mr. Saldin's estimates the price of land for Tinian greatly exceeded those for similar uses on Saipan and those on Guam.
- His potential residential use projects a very rapid population growth far beyond any serious studies thus far completed.
- But what we are really arguing about is 2,400 acres of land which you value at over \$15,000,000 where we reached an incumbered fee value of only \$2,175,000.
- But if we can reach a common basis in this area of disagreement we can probably reach agreement easily on all of the remaining land value issues.
- In less than 20% of the land area to be acquired we have 90% of the value problem, and if we can find agreement on some of the differences in this small area we can probably reach agreement on the entire problem.

Method of Acquisition

- Purchase versus lease remains a major point of difference between the MPSC and the U.S.
- No need to rehearse old arguments heard before.
 - On Marianas side throughout the negotiations land issue has been regarded as sensitive and we fully appreciate this popular sentiment.

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- For U.S. our position in favor of purchase is based on following:
 - U.S. Government is not a land holder in general sense of the word. (It is not like U.S. Steel or Continental Airlines).
 - Our land holdings exist only to protect and preserve the interests of all the people of the U.S.
 - Land is held only for specific legislative programs; Flood control, post office, defense, etc.
 - We do not hold land that would compete with local economic programs. **Our** land is dedicated to the Congressionally authorized use.
 - When land is no longer needed or becomes excess our laws direct its disposal first to local government for public programs, and then by competitive sale to private individuals; and the Marianas would be no exception.
 - Selling land to U.S. is not the same as it is to any individual, particularly in this case because you know of our plans.
 - Seers hard for you to object to our ownership, when you have the right to use this property as well and we pay for any **actual economic value that the property has.**
 - Our laws and policies have worked well in the state; indeed we have a special agency to assist states and local communities in the economic development of excess property.
 - All of our projects requiring land are referred to as public works, for they are for the public and you will be part of that public.
 - U.S. agencies act as a trustee of all national assets for the benefit of all the people.

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- In many cases the Federal Government is in a better position to manage these assets than the local governments, simply because it is not subject to the same immediate pressures.
- Land is a precious commodity in many other areas as well as the Marianas, and we recognize this and act accordingly.
- Issue of acquisition method closely related to price and method of payment inasmuch as both sides have based price calculations on fee value-- which is basic to entire equation--and lump sum versus **installment payments** or renegotiation after a period of years has a direct bearing on price.
- So let us turn now to method of payment.

VI. Method of Payment

- The counter-offer is proffered upon a lump sum payment for a 50-year lease with an option to renew at a price to be negotiated in the future.
- The lease was apparently constructed by taking the full fee value and setting a rental rate at 8.3%, which is the same as paying interest.
 - **The rental rate does not seem to be related in any way to other rentals now charged for land, nor is there any apparent connection with the land use patterns.**
 - It apparently proceeds on the assumption that once the rate of return or interest is established the receipt of future **rentals should be** discounted at the same rate. In effect the positive interest rate of 8.3% is matched by the negative discount rate of equal value so that the principal sum of \$34 million remains the same. We find this completely incomprehensible. It seems in our view only to illustrate the wisdom of a single lump sum with no subsequent renegotiation.

- We remain therefore of the view that one single lump sum payment is the only sensible method to handle this transaction regardless of method of acquisition.
- If value is to be based on the value of the fee, the single sum should reflect it.
- Later additional payments or renegotiation would be completely unsupportable in U.S. Congress.
- Remind MPSC that with simple lump sum it will have complete, unrestricted control of a very large sum and full benefit of income.
- Payment should be made just as soon as Congress votes the funds.
- No penalty for late payment, though constant dollar may be appropriate.
- If Congress refuses to appropriate funds we must clearly start again from square one and regroup on entire land issue.