

MAR 4 1974

Memorandum

To: Captain, R. Y. Scott
 Director, Office for Micronesian Status Negotiations

From: Assistant Solicitor, Territories/S/

Subject: Tinian Moratorium

You have asked for my opinion as to whether the High Commissioner of the Trust Territory of the Pacific Islands can legally declare a moratorium on homestead entries on Tinian Island and, if so, how should he do it.

The Trust Territory Code, 67 TTC §§ 201-211, provides for homesteading on public lands in Micronesia. As we read the pertinent provisions of the Code they say that areas of public lands suitable for homesteading and not needed for government use may be designated for such purpose by the High Commissioner and such areas may be allotted to qualified persons. Applications for permits to homestead may be approved or disapproved by the District Administrator. There is no requirement that he must approve them nor are there any criteria for disapproval.

It seems clear, however, that even though public lands have previously been designated by the High Commissioner as suitable for homesteading and provided no permit for entry on to them has been allowed the High Commissioner may withdraw them from designation; particularly if subsequent need for them by the government should arise. Since the High Commissioner appears to have the power to do this, I can see no reason why he cannot accomplish the same result by ordering the District Administrator of the District in which the lands are located to disapprove applications for homesteading on the lands in question by declaring a moratorium on the approval of homesteading permits.

I find nothing in the laws that prescribes any particular way in which the High Commissioner must issue or promulgate his order or moratorium. Accordingly, I conclude that he may do it in any way

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that is effective, expeditious and accomplishes his desired purpose, including verbally or in writing. Of course, if his action had a territory-wide effect, he probably should issue and publish an executive or public land order so as to reach the widest possible audience.

Since, in the last analysis, the questions you have posed involve interpretations of local law, I recommend that you secure the concurrence of the TPI Attorney General in this opinion. There may be local rules or regulations or decisions bearing on the subject with which I am not familiar.

cc:

Secy's file

Mr. Chapman ✓

DOTA - Rm. 4312

Div. Chron

Reading

Sol. Docket

GL/CBChapman/jvh 3-4-74

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17-414315

PUBLIC LAND AND MILITARY RETENTION AREAS
 MARIANA ISLANDS DISTRICT
 MARCH 1, 1973

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ISLAND	AREA	% of TOTAL
Saipan:		
Public Land	16,650 Acres	54.81%
Military Retention Area	4,963 "	16.34
Private Land	8,761 "	28.85
Total	30,374 "	100%
Rota:		
Public Land	16,730 Acres	79.45 %
Military Retention Area	NONE	
Private	4,326 "	20.55%
Total	21,056	100%
Tinian:		
Public Land	15,800 Acres	62.83%
Military Retention Area	8,882 "	35.32
Private Land	464 "	1.85
Total	25,146	100%
Pagan:		
Public Land	11,936 Acres	100%
Military Retention Area	NONE	
Total	11,936	100%
Other Islands:		
Public Land	29,410 Acres	99.45%
Military Retention Area	164	.55%
Total	29,574	100%

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NOTES:

1. Military retention areas contain no military installations other than the U.S. Coast Guard Loran Station. They are retained by the U. S. Government for future use.

EXHIBIT A

2. Parts of the military retention areas are now being used for Governmental facilities and some portions are under private lease agreements. The revenue from the private lease agreements are utilized by the Congress of Micronesia.

3. Areas shown for private and public land are approximate only. Portions of the public land are under private lease and homestead agreements.

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