

J. 1024

SECOND NORTHERN MARIANAS CONSTITUTIONAL CONVENTION
HOUSE OF TAGA
SAIPAN, CM 96950

MEMORANDUM

Date: June 25, 1985

Legal Opinion No. 15

JOEL

To : ~~Attorney General~~


From : Chairman, Committee on Governmental Institutions

Subject : Request for Legal Opinion on Delegate Proposal
No. 61-85.

The subject Proposal is for the legislature to provide a special division of the Commonwealth Trial Court to handle land disputes which involve family members or family groups of Northern Marianas descent.

Please provide your opinion as to whether the proposed division is necessary, expedient and/or feasible.

Please advise the Committee of the merit of this proposed judiciary division to serve in an advisory capacity.


Juan T. Lizana, Esq.

xc: Con-Con President



House of Representatives
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. Box 586
Saipan, Mariana Islands 96950

MEMORANDUM

Phone: 6195/6284/6618

TO: JUAN T. LIZAMA
CHAIRMAN, COMM. ON GOVERNMENTAL INSTITUTIONS
FROM: LEGAL COUNSEL
SUBJECT: LEGAL OPINION NO. 15 RE: DEL. PROPOSAL 61-85
DATE: JUNE 28, 1985

You have asked for a legal opinion upon Delegate Proposal 61-85. I believe the proposal is legally sufficient, but I doubt whether it would accomplish what the authors intended.

The amendment speaks of "advisorial" decisions. What use would such decisions be? No parties would be bound by them.

What does the second sentence of the proposal mean? Must the public defender represent the parties or may they represent themselves?

I believe land matters would be better resolved before an administrative agency. The legislature has enacted PL 3-103, the Northern Mariana Islands Homestead Compensation Act of 1984, that requires the MPLC to resolve disputes between claimants and the government. Unfortunately, the program has never been funded.

A crucial issue in land disputes is the rules of evidence. If a special tribunal is designated to hear land disputes, perhaps it should have authority to hear all relevant evidence, without regard to whether the evidence meets the standards required by a court of law.

In any event this matter is best addressed by legislation. The proposal recognizes this by stating "The legislature may provide...." However, the legislature may do what the proposal suggests whether or not the proposal ever becomes part of the constitution. Therefore, consideration of the proposal might be given a lesser priority than other delegate proposals. Alternatively, the committee may simply suggest the convention adopt a resolution requesting the legislature to provide by law for a special tribunal to hear land disputes.

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If you have any questions, please contact me.

JOEL J. BERGSMA
CHIEF LEGAL COUNSEL
HOUSE OF REPRESENTATIVES

cc: Convention President
File: Legal Counsel to Convention

A PROPOSAL

To amend Article IV, Section 2 of the CNMI Constitution by adding the following sentences after the fourth one therein.

BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

1 Section 1. Article IV, Section 2 of the CNMI Consti-
2 tution is hereby amended to add the following sentences
3 after the fourth one therein:

4 "The legislature may provide by law that such
5 special division of the court shall also serve the
6 purpose of rendering advisorial decisions which are
7 related to land issues or disputes that involve
8 family members or family groups who are of Northern
9 Marianas descent as defined by Article XII, Section
10 4 herein. Affected parties shall not be required
11 legal representation with cost except for payment
12 of reasonable fees that the court may established
13 for such service."
14

15 Date: 6/20/85

Offered by: F. Tomokane
Del. Francisco Tomokane

17 [Signature]
18 Del. Lorenzo I. Guerrero

[Signature]
Del. Alonzo Iqisomar

19 [Signature]
20 Del. David L. Igitol

[Signature]
Del. Jesus P. Mafias

21 [Signature]
Del. Karl T. Reyes

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Del. Joaquin A. Tenorio

[Signature]
Del. William S. Torres

[Signature]
Del. Ramon G. Villagomez

[Signature]
Del. Ignacio Villanueva

6/21-85