

7/9/95

## **COMMITTEE ON LAND AND PERSONAL RIGHTS**

### **SUMMARY OF ISSUES WITH RESPECT TO ARTICLE XI: PUBLIC LANDS**

#### **Section 1. Public Lands**

No issues.

#### **Section 2. Submerged Lands**

1. Should the term “submerged lands” be changed to “submerged lands and marine resources?”
2. Should the submerged lands be the responsibility of the Commonwealth government or the local governments?
3. Should the submerged lands be treated as public lands and be managed by the same entity?
4. Should exploitation of the submerged lands require a percentage payment to the Commonwealth?

#### **Section 3. Surface Lands.**

1. Should public lands be the responsibility of the Commonwealth government or the local governments?
2. Should any public lands be designated as permanent parks or conservation areas so that they are not available for lease or exchanges?
  - Parcels of 100 hectares or more?
  - Parcels of 50 hectares or more?
  - All parcels including any ocean front?
  - The sabana lands on Rota?

- Any part of the land under military lease (available under lease-back) on Tinian?
- The area inland of Obyan Beach (preserved for medicinal plants)

3. Re-establishment of MPLC or similar entity. The current constitutional language vests management and control of public lands in MPLC. Executive Order 9-3 abolished MPLC and transferred its functions to a newly created Division Of Public Lands within the Department of Lands and Natural Resources, as was permitted by the 1985 amendments.

- Should the Convention reinstate MPLC?
- Should the Convention create a new entity such as a Chamorro-Carolinian Land Trust?

#### **Section 4. Marianas Public Lands Corporation.**

The following issues are relevant only if MPLC or a similar entity is established:

1. Directors. Former MPLC had five directors appointed by the governor and confirmed by the Senate. This was a reduction from the original nine members established by the 1976 Constitution.

- Should the number of directors be increased or decreased?
- Should the directors be appointed or elected?

2. Composition of Board. The provision that governed the MPLC board required one director each from Tinian and Rota and three from Saipan.

- Should that allocation or any allocation based on island of residence be retained?
- Should allocations for other groups be made?

3. Qualifications of Board Members. Formerly, to qualify as a candidate for MPLC Board member required:

- U.S. citizenship;
- five year Commonwealth residency immediately prior to taking office;
- at least two years management experience;
- speaking Chamorro or Carolinian; and
- Northern Marianas descent.

- If MPLC or a similar entity is reestablished, should any or all of these qualifications be retained?
  - Should additional qualifications be added?

4. Term of Directors. MPLC directors served staggered terms of four years; this was reduced from the single six year term established by the Constitution of 1975.

- What should the term of office be for a director?
- Should there be a limit on the number of terms any one person may serve?

5. Budget. In the past, the budget of MPLC was submitted to the Legislature for approval as a public corporation pursuant to 1 CMC section 7206 (c). MPLC retained revenues sufficient for administration and certain mandated duties under section 5 (g); the Legislature did not appropriate additional funds for MPLC.

- Should such an arrangement be retained?
- Should the MPLC or any entity that is put in the place of MPLC be required to go through the regular legislative appropriation process?

6. Annual Report. MPLC was required to make an annual report under section 5 (e) regarding the effect of the prior year's transfers of public lands.

- Should this report be retained?

7. Management.

- Should any management positions be established in this Constitution or should this be left to the directors?

## **Section 5. Fundamental Policies.**

1. Homestead Program.

- Should the homestead program be continued in light of the diminishing supply of public lands for the purpose?
- Should it be further limited, for example, based on income or land ownership or expectancy?

- Should the right to one village and one agricultural homestead be retained?
- Should future homesteads be issued only as leases?
- Should eligibility criteria be established by the Constitution or should it continue to be provided by law and regulation?
- Should the limitations of three years to perfect title and ten years before the ability to convey a freehold interest be changed?
- Should there be a restriction for what purpose a homestead parcel may be collateralized?
- Should the homestead program in Saipan be closed within a particular period of time such as two years, and if so, should a homestead program in the Northern Islands be initiated?
- Should a Northern Islands homestead program be limited to any particular group such as those who lost land as a result of World War II?

2. Permissible Uses of Public Lands. Currently, the only permissible uses of public lands are: village homestead, agricultural homestead, public purpose by another agency of government and for land exchanges. This limitation will expire in 1996.

- Should these use limitations be retained?
- Should public land be available for commercial purposes?

3. Land Exchanges

- Should land exchanges be continued?
- Should exchanges be limited in value or size?
- Should exchanges be limited to land on the same island?
- How should wetlands exchanges be treated?

4. Term Limit on Leases. Currently, public land cannot be leased for longer than 25 years including renewal rights but a 15 year extension may be had by approval of 3/4 of the Legislature.

- Should these term limitations be retained?

- Should they be extended in light of the fact that private land leases are permitted for a longer term of 55 years?
- Should the Legislature's approval function be retained?

5. Legislative approval of leases. Currently, no lease of public land of more than five hectares may be had for a commercial purpose without legislative approval.

- Should this or some other size limitation be retained?
- Should the legislative approval process be triggered
  - by less than five hectares?
  - by more than five hectares?
  - by any lease of public land regardless of size for a commercial purpose?
- Should a public hearing be required
  - for all leases of public land?
  - only over a certain size, such as five hectares?

6. Sandy Beach Restrictions. Currently, no permanent structure may be built within 150 feet of the high water mark of a sandy beach other than facilities for a public purpose.

- Should this restriction be retained?
  - Narrowed?
  - Extended?

7. Land Use Plan. Currently, there is a requirement to adopt a comprehensive public land use plan.

- Should such a provision be retained?
- Should some enforcement and penalty provisions be mandated or enacted to give the plan some teeth?

8. Revenues. Under Section 5(g), all moneys are turned over to MPLT at the end of the year except for such administrative and specified management expenses as are retained by MPLC or its successor entity.

- Should this scheme be retained?

- Should or could the cost of operating a successor agency be funded in some new way such as a special tax on land transfers?

9. Changes in fundamental policies.

- Should changes be limited to popular initiative?

**Section 6. Marianas Public Land Trust.**

1. Composition and Terms of the Board. Currently, the Board has five Trustees who are appointed by the Governor for a staggered term of six years, subject to confirmation by the Senate. One member is from Tinian, one from Rota, and three from Saipan including at least one woman and one Carolinian.

- Should this process of selection be retained or should Trustees be elected?
- Should the number of Board members be retained?
- Should the current composition of the Board be retained?
- Should current terms be retained?

2. Limitations on Investments. Investment of trust funds for the first ten years after the effective date of the Constitution are limited to U.S. government securities or as capital in a Marianas development bank under section 6 (c). Because the Constitution has now been in effect for more than 10 years, this provision is moot.

- Should it be eliminated?
- Should it be reinstated with a different timeline?

3. Marianas Development Bank. Current section 6 (c) authorizes MPLT to contribute a percentage of its annual receipts to a Marianas development bank, if one is ever authorized by the Legislature. No Marianas development bank was ever established; the CNMI chose to fund its development in other ways.

- Should this provision be eliminated as moot?
- Should a development bank be constitutionally mandated?

4. Tanapag Harbor Funds. Section 6 (d) required that interest on the funds received by the CNMI for the federal government's lease of Tanapag Harbor be used for the development and maintenance

of a memorial park. (MPLT was to place \$2 million of Covenant funds in a perpetual trust for a memorial park in accordance with Section 803(e) of the Covenant.) The balance of the interest was to be transferred to the general fund less expenses of administration?

- If these purposes have been accomplished, is there any remaining reason to retain the provision?

5. Annual Report. Current provision requires an annual financial report.

- Should this practice be continued?

6. Fiduciary Care; Disclosure by Trustees. Current provision holds Trustees to strict standards of fiduciary care. Trustees are also required to make annual financial disclosure statements.

- Should this provision be retained in its present form?
- Should the practice of financial disclosure be continued?

7. Uses of the Trust funds.

- Should use be limited to interest earned on the fund?
- Should funds be allocated to specific purposes?