I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 68-31 (COR), "AN ACT RELATIVE TO GRANTING A SETBACK VARIANCE AND DENSITY VARIANCE FOR LOT NO. 54-2 REM, LOCATED IN THE MUNICIPALITY OF *AGANA* HEIGHTS"**, was on the 10th day of May, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 12th day of May, 2011, at 10:30 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 68-31 (COR)
As amended on the Floor.

Introduced by: T. R. Muña Barnes
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
Adolpho B. Palacios, Sr.
v. c. pangelinan
Dennis G. Rodriguez, Jr.
R. J. Respicio
M. Silva Taijeron
Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT RELATIVE TO GRANTING A SETBACK VARIANCE AND DENSITY VARIANCE FOR LOT NO. 54-2 REM, LOCATED IN THE MUNICIPALITY OF *AGANA* HEIGHTS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Lot No. 54-2 REM, consisting of approximately 1,161 square meters, located in the municipality of *Agana* Heights, and owned by Ms. Jeena I. Hemlani, has inadvertently subjected the owner to undue hardship, and practical and legal injustice, by the creation of a twenty foot (20') wide easement that was put in place

with the installation of a sewer line by the government of Guam in 1962. At that time, the government failed to delete the existing easement, thereby cutting the subject lot in half. This easement bisected the lot from the southwest corner, and continued to approximately midway to the northeast lot line and remained in this position for many years thereafter. It was later determined by both the government of Guam and Mr. Vicente Manglona, the original landowner, that the location of this easement through private property was *not* in the best interests of the government or Mr. Manglona. Therefore, the government of Guam and Mr. Manglona mutually agreed to relocate the easement, and to locate it along the southern boundary of Mr. Manglona's lot, resulting in aligning the width of the road now known as Frederico Drive, thereby abutting Mr. Manglona's lot.

With the widening of Frederico Drive and the relocation of the twenty foot (20') wide easement on the southern boundary, Mr. Manglona was never compensated. Additionally, the widening of Frederico Drive rendered the structure's setbacks, which includes a sixteen (16)-density apartment unit, as non-conforming, therefore placing a new burden on the landowner in that it added a new frontage to the lot. The lot previously had only two (2) fronts, namely Route 7 and Frederico Drive, and with the relocation of the twenty foot (20') wide easement on the southern boundary, this now created a third front yard.

Frederico Drive has served and continues to serve the residents in the immediate area as well as the general public. In its current state, Frederico Drive can only be traversed by a single vehicle, and in an emergency this could be dangerous for emergency vehicles. By accepting the deeded easement property, it will benefit over thirty (30) homes, making their access to their respective homes safer and will further beautify this section of the village of *Agana* Heights.

I Liheslaturan Guåhan finds that the injustice imposed upon Jeena I. Hemlani, the new owner of the subject lot, warrants the government of Guam to correct this injustice and allow a grant variance on the lot.

Section 2. Grant of Variances in Exchange for Easement and Retaining Wall. Setback variances are hereby granted on Lot 54-2REM, located in the municipality of *Agana Heights*, for the yard fronting *Apugan* Drive to allow the setback of 1.735 m and 1.164 m; and the yard fronting Frederico Drive to allow the setback of 1.132 m and 1.135. In addition, because of the taking of additional acreage of a portion of Lot No. 54-2 REM along Frederico Drive, which reduces the overall acreage of the Lot 54-2REM, a density variance is also granted to allow for the sixteen (16)-density apartment units to exist.

As a condition of these variances, the owner, Ms. Jeena Hemlani, will install a retaining wall between the road and the building at her expense, as well as construct a four (4) foot wall above the retaining wall to serve as a sound barrier and protection for the tenants of the owner, and their respective vehicles.

As an additional condition, ten (10) feet of the easement property identified as Lot No. 54-2 REM, located in the municipality of *Agana* Heights, owned by Ms. Jeena Hemlani, shall be deeded to the government of Guam. Lot No. 54-2 REM *shall* be granted a deletion of the dotted easement down the middle of the existing lot, resulting in solving a fifty-eight (58) year dispute in the village of *Agana* Heights.

The Department of Land Management *shall* enforce the construction of the retaining wall as required by this Act, and record the transfer of the easement to the government of Guam, prior to recording the front yard setbacks and density variance authorized by this Act for Lot No. 54-2 REM.