

CONFIDENTIAL - SUBJECT TO FRE 408

UNITED STATES v. GOVERNMENT OF GUAM
TERM SHEET

1. The Chamorro Land Trust Act and/or the Rules and Regulations of the Chamorro Land Trust Commission, as appropriate, shall be modified or amended as follows:
 - a. Chapter 75 of Title 21 of the Guam Code would be revised to replace all references to the terms "Chamorro," "native Chamorro," and "Chamorro homelands" (or any variations thereof) with "**beneficiary**," "**eligible beneficiary**," and "**Chamorro Land Trust property**," respectively, except as provided in 1(b) and 1(d) below, and references to the "Chamorro Land Trust Act," "Chamorro Land Trust Commission," "Hatdin Ámot Chamorro," "Chamorro traditional healing or medicine," "Chamorro heritage and culture," "traditional Chamorro medicines," and "traditional Chamorro remedies" need not be revised.
 - b. Section 75101(c) would be revised to state as follows: "The term '**Chamorro Land Trust property**' means all **Chamorro homelands under the control of the Chamorro Land Trust Commission** under the provisions of § 75105 of this Chapter."
 - c. Section 75101(d) would be revised to state as follows: "The term '**eligible beneficiary**' means **any person, regardless of race, color, or national origin: (1) whose land was acquired by the United States government between 1898 and 1968, or descendants of such person; or (2) who occupied, farmed, or ranched land for residential or agricultural purposes for at least one year immediately prior to that land being acquired by the United States government between 1898 and 1968, except that a person is eligible if he or she occupied, farmed or ranched the land on or after December 8, 1941, and the land was acquired at any time after that date and up to 1950, or descendants of such person.**"
 - d. The beginning of Section 75105 would be revised to state as follows: "Upon and after the enactment of this Chapter, all available **Chamorro homelands** shall immediately assume the status of **Chamorro Land Trust property** and shall be under the control of the Commission...."
 - e. Add language to Chapter 75 of Title 21: "**Verification of Eligible Beneficiaries**
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 - i. **Owned Land Acquired by the United States: To be eligible based on ownership of land that was acquired by the United States Government between 1898 and 1968, a person must provide either (a)**

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documentary evidence of ownership in substantially the same form as that required by the Guam Ancestral Lands Commission for ancestral land claims; or (b) a declaration or affidavit, signed under penalty of perjury, attesting that the person owned, or is the descendant of someone who owned land that was acquired by the United States. To the extent known or reasonably ascertainable by the person, this declaration or affidavit shall include the location, by parcel number, address, legal description, or other legally-recognized identifier, of the land that was claimed to have been owned and the date of acquisition by the United States. The applicant shall be required to use their best efforts to obtain the information described above. The applicant must also provide documentation demonstrating that they are the descendent of the person who owned the land. Based upon review of the documentation, declarations or affidavits, and any additional research the Commission conducts, including but not limited to the "Bohn files" and any other readily-available condemnation and land records, the Commission shall determine whether the applicant is an eligible beneficiary.

- ii. **Occupied, Ranched, or Farmed Land Acquired by the United States:** Persons shall be considered 'eligible beneficiaries' if the United States acquired land on which they did not hold title or ownership, but who nevertheless had occupied, ranched, or farmed land for a continuous, substantial period of time as of the date of acquisition by the United States, except that a person is eligible if he or she occupied, farmed or ranched the land on or after December 8, 1941, and the land was acquired at any time after that date and up to 1950. To be eligible under this provision, an applicant must sign a declaration or affidavit setting forth, in sufficient detail and under penalty of perjury, the following facts to the extent known or reasonably ascertainable by the applicant: (1) the location, by parcel number, address, legal description, or other legally-recognized identifier, of the land that was claimed to have been occupied, ranched, or farmed; (2) the name of the person or persons who occupied, ranched or farmed the land; (3) the length of time the person(s) continuously occupied, ranched, or farmed the land; (4) the legal owner of the land and the relationship between the owner and the person who occupied, ranched, or farmed the land, including whether any compensation or rent was paid to the owner; (5) a description of the nature of the person's activity on the land, including whether the land was used for residential or agricultural purposes; (6) if the land was ranched or farmed, the type of activity being conducted on the land (such as the types of crops harvested or animals raised); and (7) whether the person improved

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the land in any way and the nature of such improvements. The applicant must also provide documentation demonstrating that they are the descendent of the person or persons who occupied, ranched, or farmed the land. The applicant shall be required to use their best efforts to obtain the information described above. Based upon review of the documentation, declarations or affidavits, and any additional research the Commission conducts, the Commission shall determine whether the person is an eligible beneficiary.

For purposes of this provision, a ‘substantial period of time’ shall be no less than one year, and a person shall be deemed to have ‘occupied’ land if he or she maintained his or her primary residence on the land.”

- f. Section 75109(a)’s third sentence would be revised to state: “Such person or persons must be qualified to be a lessee of **Chamorro Land Trust lands**: provided, that such person or persons need not be eighteen (18) years of age; provided, further, however, that if the person designated by the lessee (1) is the lessee’s spouse; (2) has been married to the lessee for at least the past seven years; (3) is residing on the property with the lessee in a structure that has been approved as a residence at the time of the lessee’s death; and (4) is not an eligible beneficiary as defined under this Act, such person shall, upon the death of the lessee, receive a life estate in the remainder of the lease, and upon termination of the life estate, assignment of the lessee’s remaining interest in the lease shall be governed by the applicable provisions of the **Chamorro Land Trust Act** as if the lessee had died without designating that person as a beneficiary.”
 - g. Any applications for leases that are considered after the effective date of this Agreement shall be subject to the terms of this Agreement. This Agreement shall not affect the order of consideration of applications.
2. Defendants shall make reasonable efforts to notify current lessees and applicants of the provisions described above, including posting such changes on the Commission’s website.
 3. Within 180 days of the effective date of this Agreement, the Commissioners, Administrative Director, and employees of the Chamorro Land Trust Commission shall attend, at Defendants’ expense, an in-person education and training program on the requirements of the Fair Housing Act, including discrimination based on race, color, or national origin. The training shall be conducted by a qualified person approved in advance by the United States.

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4. The duration of this Agreement shall be for a period of four years. During this period, Defendants shall maintain all records with respect to compliance with this Agreement. The United States shall have the right, upon reasonable notice, to review and copy any such records and to take any action to enforce this Agreement as authorized by law.
5. The parties understand and agree that this Agreement is contingent upon the enactment of legislation by the Guam Legislature, including amendments to the Chamorro Land Trust Act, that are substantially in the same form as the terms of this Agreement. Defendants shall make diligent efforts to seek enactment of any legislation necessary to comply with and carry out the terms of this Agreement. If, within one year of the effective date of this Agreement, Defendants fail to obtain enactment necessary to comply with this Agreement, the United States retains all rights, including the right to withdraw consent to this Agreement and revive all claims otherwise barred by operation of this Agreement. Within 90 days of the effective date of this agreement, Defendants shall additionally determine whether and to what extent to which this Agreement may be implemented through executive or Commission action and shall do so where authorized by law.
6. The parties recognize that, as a term of this Agreement, the United States shall file a motion with the Court to vacate the portions of its December 21, 2018 and April 25, 2019 orders holding that the United States is barred from obtaining damages on behalf of aggrieved persons under the Fair Housing Act in this case, and that Defendants shall not oppose this motion. Nothing in this provision shall authorize the United States to seek damages in this case.

Agreed to in principle by the counsel for the parties and subject to approval by the respective parties.

November 14, 2019.

For the United States:



Max Lapertosa
Alan Martinson
U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section

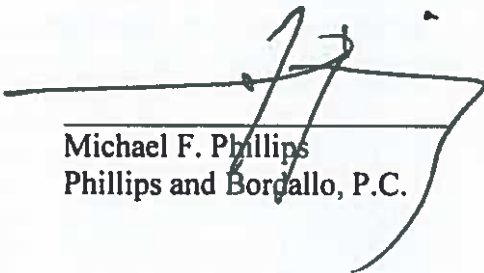
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For the Government of Guam and the Administrative Director of the Chamorro Land Trust Commission:



James L. Canto II
Deputy Attorney General
Office of the Attorney General of Guam

For the Chamorro Land Trust Commission:



Michael F. Phillips
Phillips and Bordallo, P.C.