

LOCAL

# Interior OKs compact-impact funding

By Jerick Sablan

Pacific Sunday News  
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The Department of Interior has approved the administration's requests for compact-impact funding for fiscal 2013.

"The requests we made for FY2013 compact-impact funds reflect the priorities we had for this fiscal year to cover the needs of our community," Gov. Eddie Calvo stated in a press release from his office.

Different agencies will receive additional money through the compact-impact funding.

The funding is given to Guam to help host regional migrants. In recent years, Guam has consistently received about \$16 million of what's

called compact-impact funding, which helps Guam and other U.S. jurisdictions cope with regional migrants. The Compacts of Free Association allow citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands to immigrate freely to the United States.

Calvo made the request last August. U.S. DOI Director of Insular Affairs Nikolao Pula approved the request this week, the release states.



Calvo

## BY THE NUMBERS

\$2.52 million for public safety communication system

\$350,000 for new police cars

\$6 million to Guam Memorial Hospital to pay medical related outstanding debt

\$350,000 to fix Department of

Public Works seven satellite facilities

\$200,000 to Department of Integrated Services for Individuals with Disabilities for individualized budget program

\$300,000 to Bureau of Statistics and Plans for centralized data center project

Pacific Sunday News

The Guam Police Department will receive an initial \$2.52 million investment to ensure the islandwide public safety communications system remains operational, the release states. The system runs and networks all police and other law enforcement radios and radar. An additional \$350,000 will be used to purchase

police cars to augment the existing fleet, the release states.

Guam Memorial Hospital will get \$6 million to provide financial assistance to the hospital for payment of medical-related outstanding debt.

The Department of Public Works will receive \$350,000 to renovate and repair its seven satellite facilities

which are in bad condition, the release states.

The Department of Integrated Services for Individuals with Disabilities will receive \$200,000 for its individualized budget program. This funding will provide about 100 individual grants to help consumers with disabilities to lead more independent lives, the release states.

The Bureau of Statistics and Plans will receive \$300,000. It will use \$200,000 to create a "one-stop" data clearinghouse, the release states. Another \$100,000 will be used to image and archive documents, allowing for web-based search and document retrieval, the release states.

## Davis appeals plebiscite suit to 9th Circuit

By Brett Kelman

Pacific Sunday News  
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A controversial lawsuit over plans for a Chamorro-only plebiscite vote has been appealed to a higher court in California.

Local resident Arnold Davis filed a notice of appeal in the District Court of Guam on Thursday. A District Court judge dismissed Davis' lawsuit earlier this month.

The details of the appeal are not yet available. Although the appeal has been filed in the 9th Circuit Court of Appeals in California, the case documents aren't yet accessible.

### Political status

The plebiscite is intended to measure the preferred political status of Guam's native inhabitants. The plebiscite is limited to people who fit the legal definition of "Chamorro" — those who became American citizens by the Organic Act of Guam in 1950. The vast majority of these residents also are ethnically Chamorro.

Davis, who is neither legally nor ethnically Chamorro, argued that the proposed plebiscite was discriminatory on racial grounds.

### Lawsuit dismissed

His lawsuit was dismissed because GovGuam has not scheduled any plebiscite in the near future, which the court said made his arguments moot. GovGuam officials have said they hope to hold a plebiscite vote in 2014, but nothing has been scheduled.

Although Chief Judge Frances Tyndgco-Gatewood dismissed the plebiscite lawsuit, she didn't rule on any of the questions it raised about ethnicity or discrimination. If a plebiscite vote is scheduled at a later date, the lawsuit can be re-filed, Tyndgco-Gatewood said in her order.

The new appeal in this case seeks to reverse the dismissal. If successful, the appeal would force the District Court of Guam to tackle the lawsuit regardless of whether a plebiscite vote has been scheduled.

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# Plebiscite suit on appeal to 9th Circuit Court

By Geraldine Castillo  
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Variety News Staff

JUST a few weeks after a lawsuit against the local government and the Guam Election Commission was dismissed in federal court, Yigo resident Arnold "Dave" Davis is taking his case to the Ninth Circuit Court of Appeals.

The appeal, filed Jan. 31 by Davis' attorneys, comes three weeks after District Court Chief Judge Frances Tydingco-Gatewood issued her decision to dismiss the case.

The lawsuit was dismissed without prejudice, which means Davis can choose to re-file his case if he can demonstrate a plebiscite has been scheduled.

"Until the plebiscite he seeks to register for is 'certainly impending,' he has no claim," the chief judge had said.

Shortly after the ruling, Davis' attorney, J. Christian Adams, expressed disappointment and said they intend to appeal the case to the Ninth Circuit where they are hopeful existing Supreme Court precedent will lead to a reversal and remand.

"Mr. Davis had argued that a citizen is injured when they are denied the right to fully participate in any political process. Even GovGuam did not find the ripeness argument to have enough merit to bring it in the first place," he said in an issued statement in January. "Regardless, no plebiscite election will ever take place on Guam without the discriminatory problems being fully litigated."

Davis filed his complaint more than a year ago, alleging discrimination in the voting process after he was denied from registering with the Guam Decolonization Registry, which was to be used for a plebiscite. The plebiscite was to gather the votes of those in the registry on their preferred political status for Guam. The choice would then be communicated to the U.S. Congress; however, it would not determine the island's political status.

David claimed racial discrimination and a violation of his voter rights. Davis was unable to register because he did not meet the requirement of being a "native inhabitant of Guam," which was defined "as a person who became a U.S. citizen by virtue of the 1950 Organic Act and a descendant of such person."

Tydingco-Gatewood dismissed the case at the recommendation of Magistrate Judge Joaquin Manibusan on grounds that no plebiscite has been scheduled to merit his claims of discrimination in the voting process.

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# Second Adelup briefing discusses more improvements

By Zita Y. Taitano  
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Variety News Staff

THE implementation of a new system at the Guam International Airport Authority was among the topics discussed yesterday during the second briefing given by Frank Arriola, the governor's chief of staff.

According to Arriola, GIAA has reduced traffic at Immigration from 60 minutes to as low as 10 minutes through a new program called the Electronic System of Travel Authorization, or ESTA.

ESTA costs passengers \$14 and takes three days to process. Arriola noted that most of the passengers coming from Japan and Korea already have the new system, which was implemented in the final quarter of 2010.

The airport also introduced a barcode reader for baggage, making it faster to accept and sort baggage so customers don't have to wait for a long period of time. The barcode reader was implemented on March 28.



▲ Frank Arriola, the governor's chief of staff, speaks to the media during his second weekly briefing to keep the public aware of government operations. Arriola is holding the weekly briefings to help ensure transparency within the Executive branch.

## DISID

During the briefing, Ben Servino, director of the Department of Integrated Services

for Individuals with Disabilities, clarified the plan to dock employees' pay if they come in late for work.

Servino explained that the situation would be on a case-by-case basis.

"The rules have been so lax in the past. I'm trying to make the employees understand that accountability needs to be addressed," he said, adding he's checked the time sheets which showed at least 90 percent of the employees now come in before 8 a.m.

## GFD

Arriola also touched briefly on the Guam Fire Department entering the next phase of its ambulance billing contract with LifeQuest Services

regarding Laptop/Toughbook training.

GFD spokesman Lt. Ed Artero said representatives from LifeQuest Services are on-island this week to conduct training and introduce the ambulance billing software. All uniformed personnel in GFD will be undergoing training this week at the Guam Homeland Security/Office of Civil Defense facility in Agaña Heights and at the Outrigger Hotel in Tumon.

Once completed, the company will provide laptops/toughbooks to all ambulance and ALS units to increase GFD's ability to collect ambulance service fees at a faster rate.

# Court approves Anne Hattori 'amicus' brief

By Zita Y. Taitano  
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Variety News Staff

DISTRICT Court of Guam Magistrate Judge Joaquin Manibusan Jr. has approved the motion to file a brief as amicus curiae for University of Guam Professor Ann Perez Hattori.

The motion was filed on her behalf by attorney Julian Agnon.

The document was in connection with the plebiscite case filed by Arnold "Dave" Davis, who claims his voting rights were violated when he was prevented from registering in the Decolonization Registry because he's not a native inhabitant of Guam.

Agnon said the court formally granted the motion and accepted the amicus curiae.

He explained the brief was intended solely to elucidate their contention that the lawsuit is not right for adjudication.

The court document notes that Hattori meets the definition of a "native inhabitant of Guam" defined as those who

are descendants of residents who gained U.S. citizenship through the Guam Organic Act.

The court document also noted that Hattori has a "direct personal interest" in the case if any decision is made.


In the brief in support of the motion to dismiss, it was stated that the lawsuit by Davis does not deal with the discrimination of race or safeguarding of civil rights, but only "seeks to deny a multi-racial, multi-ethnic group of people, namely the pre-1950 residents of Guam and their descendants, from effectively exercising their right to express by plebiscite their desires regarding their future political relationship with the United States of America."

The actual court hearing on the plebiscite isn't expected to be heard until April 22, 2013 at 9:30 a.m. before District Court Chief Judge Frances Tydingco-Gatewood. Prior to that, there will be a preliminary pre-trial conference hearing set up this year and early next year.

## ERRATUM


In the Monday, April 9, 2012 edition of the Variety, the outline for the page 1 photo should have read that the DSV Deepsea Challenger and the unmanned lander DOW Mike met up at about 1,100 meters below the surface. In addition, the Deepsea Challenge article on page 3 of the same issue should have read that the Challenger Deep measured 35,756 feet below the surface of the ocean. The Variety regrets the errors.

*\* District court of Guam*



# GHURA

**Guam Housing and Urban Renewal Authority**  
*Auridat Glainia' Van Rinueban Sudad Guahan*  
117 Bien Venida Avenue • Sinajana, Guam 96910  
Phones: (671) 477-9851 • Fax: (671) 300-7565 TTY# (671) 472-3701



**Edward J.B. Calvo**  
Governor

**Raymond S. Tenorio**  
Lieutenant Governor

### NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

**Project 1: Sagan Llanhyan Rental Rehabilitation**  
**Project 2: Staff Housing Rental Rehabilitation**

**THIS AD PAID FOR WITH HUD FUNDS by GHURA**

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the Guam Housing and Urban Renewal Authority.

**REQUEST FOR RELEASE OF FUNDS**

On or about the April 24, 2012, the Guam Housing and Urban Renewal Authority (GHURA) will submit two requests to the Director of the Office of Community Planning and Development, U.S. Department of Housing and Urban Development, Hawaii State Office-Pacific/Hawaii Region, for the release of funds of the Community Development Block Grant, Title I of the Housing and Community Development Act of 1974, Grant #B-11-ST-66-0001. The funds will be used for the rehabilitation of homes in the following areas: (Project 1) 10 homes at Sagan Llanhyan, Dededo, and (Project 2) 5 homes of the former teacher staff housing at Talofofo and 5 homes of the former teacher staff housing in Merizo.

	Project / ID Number	Project Locations	Budget Amount
<b>PROJECT 1</b>	CDBG/B11-12	Tract 1113, off of Route 28 and Chalan Hiltai in Dededo, adjacent to the Astumbo Elementary School (10 homes)	\$650,000
	<b>TOTAL</b>		<b>\$650,000</b>
<b>PROJECT 2</b>	CDBG/B11-13	Tract 261, on Togcha Street and Sabana Drive in Talofofo (5 homes) Lot 402, on Halaogan Street and Cruz Avenue in Merizo (5 homes)	\$675,000
	<b>TOTAL</b>		<b>\$675,000</b>

**FINDING OF NO SIGNIFICANT IMPACT**

GHURA has determined that these projects will have no significant impact on the human environment. Therefore, Environmental Impact Statements under the National Environmental Policy Act of 1969 are not required. Additional project information is contained in the separate Environmental Review Records (ERRs) at GHURA's Main Office, located at 117 Bien Venida Avenue, Sinajana, Guam and may be examined or copied weekdays 9:00 a.m. to 5:00 p.m.

**PUBLIC COMMENTS**

Any individual group or agency disagreeing with this determination or wishing to comment on either both projects may submit separate written comments for each project to GHURA's Main Office, Attention: Albert Santos, Architectural and Engineering Division. All comments received by April 20, 2012 will be considered by GHURA prior to submission of a request for release of funds. Commenters should specify which notice they are addressing and which project they are addressing.

**RELEASE OF FUNDS**

GHURA certifies to the Director of the Office of Community Planning and Development, U.S. HUD, Hawaii State Office-Pacific/Hawaii Region that the Honorable Eddie Baza Calvo in his capacity as Governor of Guam consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. The U.S. Department of HUD Hawaii State Office's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows GHURA to use program funds.

**OBJECTIONS TO RELEASE FUNDS**

The Office of Community Planning and Development, U.S. HUD Hawaii State Office-Pacific/Hawaii Region will accept objections to its release of funds and the GHURA certification received by April 24, 2012 + 15 days or a period of fifteen days from its receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer or other officer of GHURA approved by the Director of the Office of Community Planning and Development, U.S. HUD Hawaii State Office-Pacific/Hawaii Region (b) GHURA has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by the U.S. HUD Hawaii State Office-Pacific/Hawaii Region; or (d) another Federal agency acting pursuant to 40 CFR 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to Mr. Mark Chandler, Director, Office of Community Planning and Development Division, U.S. Dept. of Housing and Urban Development, Hawaii State Office-Pacific/Hawaii Region at 1132 Bishop Street, Suite 1400, Honolulu, Hawaii 96913; (808) 457-4678. Potential objections should contact the aforementioned office to verify the actual last day of the objection period.

**EDDIE B. CALVO**  
Governor of Guam

# Davis files for class action certification in discrimination suit

By Janela Buhain Carrera  
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Variety News Staff

ARNOLD "Dave" Davis yesterday filed a motion in the District Court of Guam to certify his lawsuit as a class action. Davis is challenging the Guam decolonization plebiscite, that it is unconstitutional as it discriminates against non-Chamorros.

Additionally filed were the declarations of Davis' attorneys, J. Christian Adams and Michael E. Rosman.

Davis argues that the lawsuit should be certified as a class action as the proposed class consists of all registered voters of Guam "who cannot register to vote in the plebiscite solely because they are not 'native inhabitants of Guam.'"

Davis then cites the prerequisites for the class action under Rule 23(a) of the Federal Rules of Civil Procedures. He believes that although he is the only plaintiff identified by name, "requirements of numerosity, commonality and typicality, are met unambiguously by this class."

### Violated

Davis claims his voting rights were violated when he tried to register for the Decolonization Registry but was denied because he is not a native inhabitant of Guam.

The lawsuit has drawn partisan and contrasting reactions from both the American left and the right-wing conservative block.

The Guam Decolonization Registry was created to delineate Guam residents who are entitled to vote for Guam's political status plebiscite, or self-determination.

The only individuals who can register are those who became U.S. citizens under the 1950 Organic Act of Guam and their descendants.

### Stop

Davis is seeking to stop the Guam Election Commission from utilizing the Decolonization Registry to determine Guam's future political status.

Atty. Julian Aguon in January submitted a motion on behalf of University of Guam Professor Anne Perez Hattori, who is a descendant of a Guam resident who became a U.S. citizen through the 1950 Organic Act of Guam.

Aguon stated in a brief that Davis' lawsuit has nothing to do with the discrimination of race or the safeguarding of civil rights. Aguon said people who became U.S. citizens through the

*Davis is seeking to stop the Guam Election Commission from utilizing the Decolonization Registry to determine Guam's future political status.*

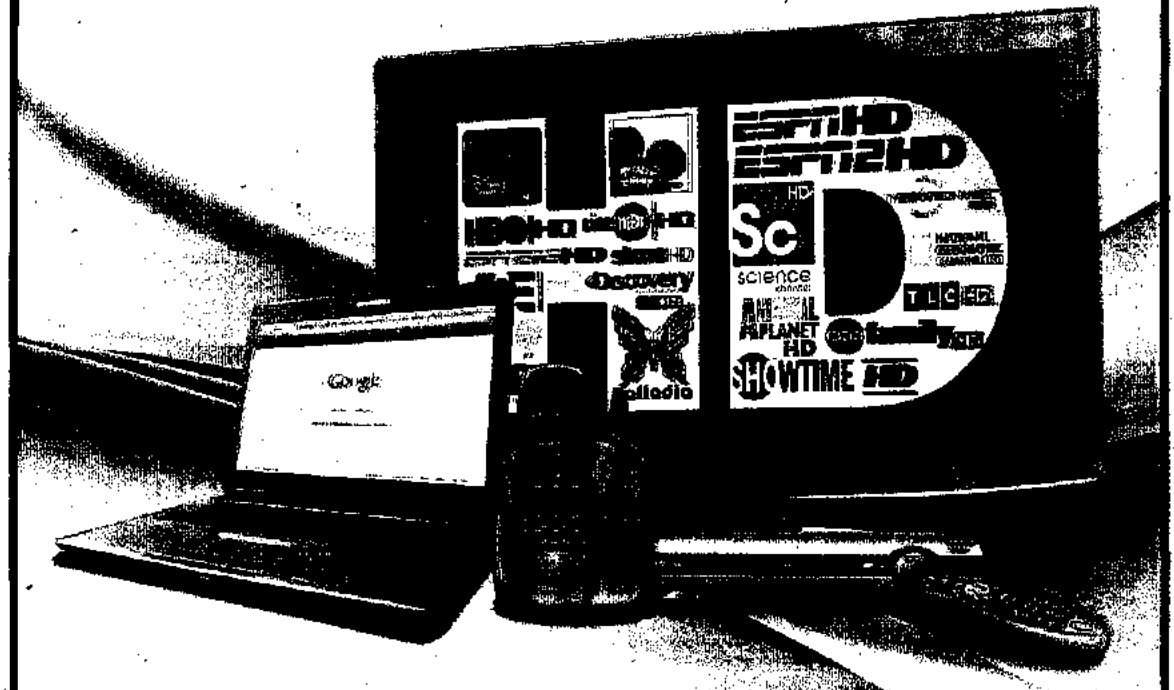
*Atty. Julian Aguon stated in a brief that Davis' lawsuit has nothing to do with the discrimination of race or the safeguarding of civil rights.*

Organic Act of Guam and their descendants are now comprised of diverse racial and ethnic groups, to include Caucasians.



Students of Simon Sanchez gathered again Monday to bring more attention to the road leading to their school and how the road is being littered again so soon after their cleanup effort. Some of the students who participated were, front row from left, Stanley Rice, Elisa Balbuena, Anne Quijano, Ohren Ohry, Shaaka McNeil, and, back row from left, Rafael Sabtan, Michelle Quichocho, Tamar Geis, and Jusper Tandoc. David Castro / For Variety

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Guam Public Library System  
Nieves M. Flores Memorial Library

2/28/12

# Thieves make botched attempt at stealing Coast360 ATM

By Zita Y. Taitano  
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Variety News Staff

LIKE a scene out of the movie "Barbershop," thieves attempted to steal an ATM early yesterday morning from the UR Market in Dededo, only to abandon it near the store.

According to Guam Police Department spokesman Officer A.J. Balajadia, officers from

the Dededo Precinct responded to a burglary in progress at the market at around 4:13 a.m., where a white van was reportedly pulling the Coast360 Federal Credit Union ATM from the establishment.

The Variety spoke with John Wong, part owner of the store, who said the business is equipped with video surveillance which caught the suspects in the act.

He indicated the van—with two people inside—was driven onto the parking lot at around 4 a.m.

Wong further said the suspects cut the chained gate and broke the glass door, but the alarm was activated when the door was pushed in.

He believes the suspects used the chain and tied it around the ATM then pulled it out with the van, but because of the machine's

weight, the chain broke.

Officers located the ATM about 100 feet from the store. The machine was reported to be heavily damaged, but the money boxes were still intact with no amount missing.

Officers also recovered the van near a residence adjacent to the store. The van was discovered stolen Wednesday night or early yesterday from the parking

lot of the Seafood Chef Restaurant in Tamuning.

The case is currently under investigation. The community is asked to contact the Guam Police Department at 475-8615 or Guam Crime Stoppers at 477-HELP (4357). Residents can also log on to [www.guam.crimestoppersweb.com](http://www.guam.crimestoppersweb.com) if they have any information regarding this case.

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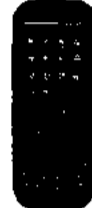
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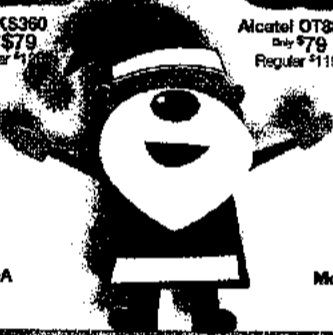
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## Pro Hac Vice grants off-island attorneys for plebiscite lawsuit

By Zita Y. Taitano  
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Variety News Staff

THE decolonization plebiscite civil complaint filed last week in the ~~\_\_\_\_\_~~ by Arnold "Dave" Davis is moving along in the system.

Named in the complaint is the island of Guam, GEC board members Alice M. Tajeron, Martha C. Ruth, Joseph F. Mesa, Johnny P. Taitano, Donald I. Josueley, former member Joshua F. Tenorio, the Guam Election Commission, and Attorney General of Guam Lenny Rapadas.

The island of Guam and Rapadas will be represented by Assistant Attorney General Robert Weinberg. Representing the GEC and the commissioners is their legal counsel, Jeff Cook, of Cunliffe & Cook.

On Wednesday, a request was granted for off-island attorneys Christian Adams, of the Election Law Center in Virginia, and Michael Rosman, of the Center for Individual Rights "Pro Hac Vice."

Pro Hac Vice grants special permission for out-of-state attorneys to be part of a particular case, even though the lawyer is not licensed to practice in the state wherein the case is being heard. Signing off on the court documents was Magistrate Judge Joaquin Manibusan Jr.

VERTICAL FILES  
Guam Public Library System  
Hoyes W. Flores Memorial Library

Pacific Daily News, Wednesday, January 4, 2012  
guampdn.com

# More arguments filed in plebiscite suit

**By Brett Kelman**  
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A man who is suing to stop a Chamorro-only plebiscite vote has filed new arguments opposing the government of Guam's effort to toss his lawsuit out of federal court.

The plaintiff's legal arguments state that GovGuam has presented its own plebiscite as "meaningless," and compares the Chamorro Registry to hypothetical discrimination in the American south.

In November, a class action lawsuit was filed on behalf of Guam resident Arnold Davis and others in the District Court of Guam. Davis was barred from registering for the political status plebiscite because he is neither legally nor ethnically Chamorro.

The registry requires plebiscite voters to be "native inhabitants of

Guam," which means their bloodline can be traced back to an island resident who was made an American citizen by the Organic Act of 1950.

In December, Attorney General Leonardo Rapadas argued that Davis' lawsuit was flawed because the plebiscite vote doesn't have any direct result on the future of Guam's political status. Therefore, the denial of Davis' vote has no legally cognizable "impact," Rapadas wrote.

In his response, Davis states that the plebiscite is not meaningless, and even if it was, that is not justification to allow racial discrimination.

"Defendants seek a safe harbor by arguing that the plebiscite is meaningless, that it is no more than a public opinion poll, without effect," Davis argues. "Of course, if

that were true, those advocating for the plebiscite could save the government substantial time, significant expense and the trouble of this lawsuit by conducting a private opinion poll of Chamorros and publicize the results. It is precisely the imprimatur of the government conducting this election and transmitting the results as a sovereign to another sovereign

that gives the plebiscite results weight." Davis argues that the registry still is racially discriminatory even if the voter requirement is not based on ethnic lines but rather on legal terms that just happen to parallel ethnic lines.

Otherwise, GovGuam's reasoning could justify actions that are "unquestionably illegal," Davis said.

As an example, Davis argues that GovGuam's logic could hypothetically be used by the Alabama Legislature to ascertain how state residents felt about affirmative action, but only counting the opinions of those whose ancestors attended the University of Alabama when it was founded in 1831.

"Naturally, nearly all the citizens eligible to register for this non-binding election will be of one race, but Alabama could emphasize the statutory silence in that regard," Davis argues. "After the election, government resources would be used to compile and transmit the results to the federal government. Yet no further action is contemplated on this hypothetical law, and everyone thereafter is free to ignore the results."

Davis' lawsuit continues in federal court. A summons has been issued but no court hearing has been scheduled.

**In Your Voice**  
Post your comment on [www.guampdn.com](http://www.guampdn.com)

## LOCAL NEWS

### Man charged in ukulele assault

A man who allegedly bashed his cousin in the face with a ukulele has been charged with misdemeanor family violence and assault after being arrested by police. Anson Joseph allegedly told police he struck the woman with the wooden instrument because he was angry, according to Superior Court of Guam documents. The alleged attack occurred about 7:30 p.m. Dec. 16 in a Dedado apartment, court documents state.

### Guitar allegedly used to smash window

A man who allegedly smashed the window of a Saiajana home with a guitar has been arrested on suspicion of misdemeanor criminal mischief. John M. Quidachay, 34, allegedly smashed the window after an argument with his girlfriend around 2 a.m. yesterday. Quidachay allegedly admitted breaking the window, Superior Court of Guam documents state.

*Pacific Daily News*

## New Year's weekend sends police on more disturbance calls

**By Brett Kelman**  
Pacific Daily News  
bmkelman@guampdn.com

Guam police responded to an above average number of disturbance calls over the long weekend, but reports of gunfire and homemade cannons were lower than expected.

Between 6 p.m. Friday and 6 a.m. Tuesday, police received about 97 disturbance calls but only 21 reports of gunshots and 11 reports of homemade cannon fire, police spokesman Officer A.J. Balajadia said in a press release.

Normally, on New Year's holidays, GPD gets more reports of gunfire and cannons, Balajadia said.

"It would seem not as many people reported this year," Balajadia wrote in an email. "This may be due to the community (becoming used) to it. ... It's illegal and it should be reported."

Guam has struggled with New Year's Eve gunfire for years, and in 2009 a young girl was wounded after a stray bullet struck her head, but the problem continues.

Balajadia said the number of disturbance calls increased to above average numbers but it was expected because of the holiday weekend.

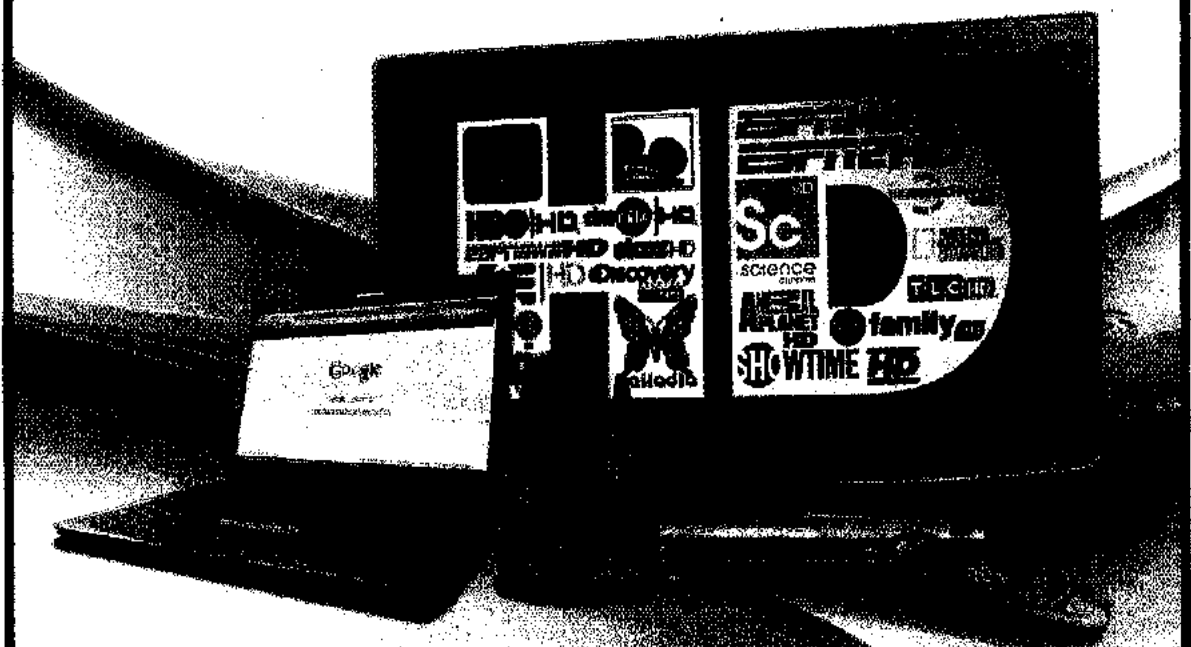
Violent crimes were not abnormally high, although police did respond to five assault reports and one aggravated assault report — involving a suspect who allegedly wounded a man with a cleaver.

### REPORT STATISTICS

Here are some of the other report statistics from the long weekend:

Vehicle crashes	50
DUIs	5
Riot calls	2
Terrorizing	3
Criminal sexual conduct	2
Loud music	7

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*[Signature]*

**VERTICAL FILES**  
Guam Public Library System  
Nieves M. Flores Memorial Library

# GDOE running out of money

By **Therese Hart**  
 therese@mvguam.com  
 Variety News Staff

BEFORE Gov. Eddie Baza Calvo decides to move Untalan Middle School to the interim Tiyan campus, funding for the move will have to be identified;

but another concern is the Guam Department of Education running out of money in June. If this were to happen, GDOE will have no option but to shut down all operations, interim GDOE Superintendent Taling Taitano said.

Last week, the Governor's

Office cancelled a press conference that was to be held regarding Untalan Middle School. No reason for the cancellation was given by the Governor's Office.

Taitano said she has already written to the governor requesting that the funds be released.

Sen. Ben Pangelinan has also written several letters to Calvo, urging him to release the funds.

The reserved funding amounts to approximately \$30 million, Taitano said, which includes the salaries and benefits of all GDOE

GDOE continued on page 2

## » INSIDE



**ENTERTAINMENT**  
**RUSSELL BRAND - KATY PERRY**  
 14-MONTH MARRIAGE OVER  
 Page 16



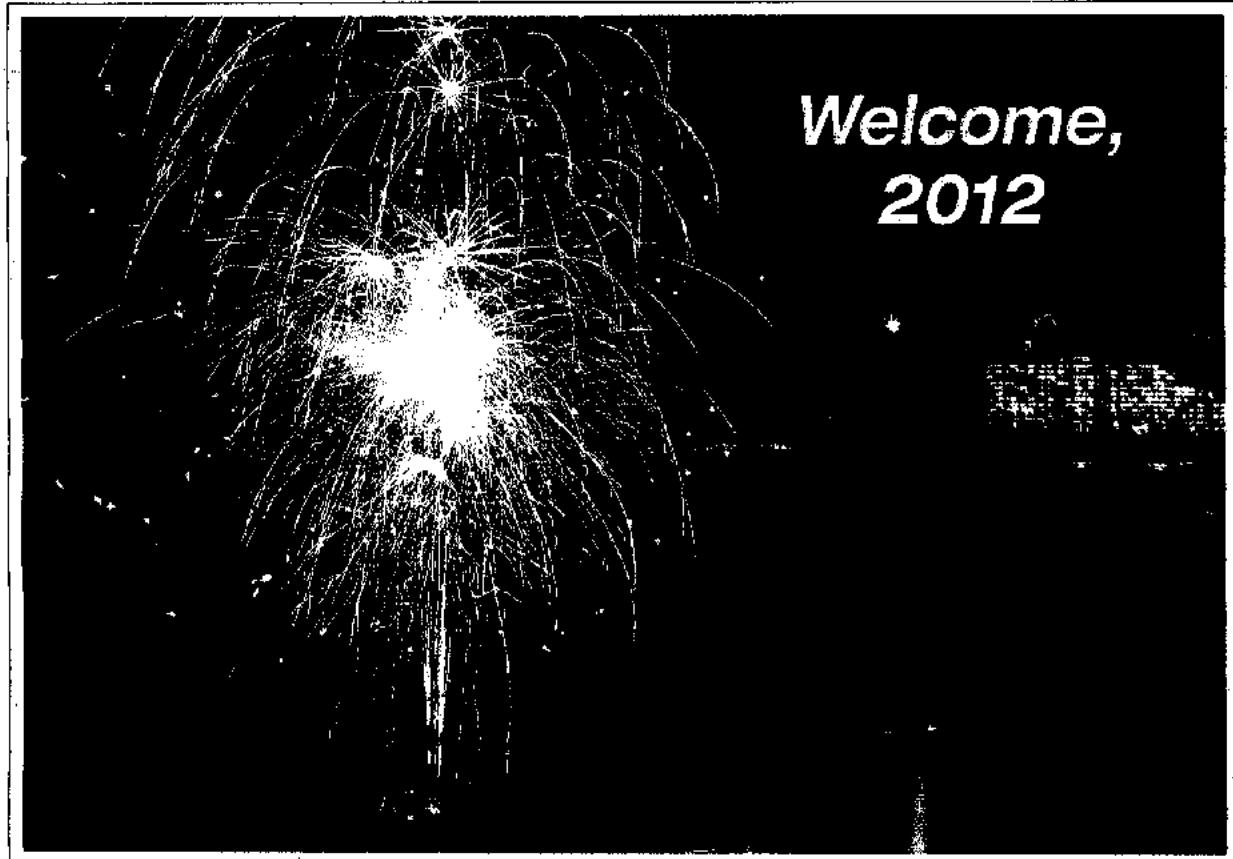
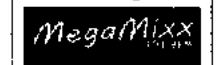
**HEALTHY BAKING - PUMPKIN MUFFINS**  
**JENNIFER Steele** is a professional baker in North Carolina who specializes in healthy but delicious products. Here is her recipe for Pumpkin Muffins.  
 Page 14

**BYNUM POWERS LAKERS PAST NUGGETS**  
 Page 22



## LISTEN

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Welcome,  
 2012

Fireworks light up the sky above Tumon as part of the annual New Year's fireworks display held this year near Gov. Joseph Flores Memorial Beach Park. Matt Weiss / Variety

# Brief supports motion to dismiss Davis lawsuit

By **Zha Y. Taitano**  
 zha@mvguam.com  
 Variety News Staff

GUAM attorney Julian Aguon has submitted a motion on behalf of University of Guam professor Anne Perez Hattori as "amicus

curiae" to dismiss the plebiscite case filed in the District Court of Guam by Arnold "Dave" Davis.

Named in the lawsuit are Guam, the Guam Election Commission, GEC members, and Attorney General Lenny Rapadas.

Davis claims his voting rights were violated when he tried to register for the Decolonization Registry but was denied because he is not a native inhabitant of Guam.

According to court documents,

Hattori, who meets the definition of a "native inhabitant of Guam" due to being a descendant of residents who gained U.S. citizenship via the Guam Organic Act, has a "direct personal interest" in

LAWSUIT continued on page 2

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*Disputes court / Attorney general*

## Hawaii district court judge dismisses Págat case

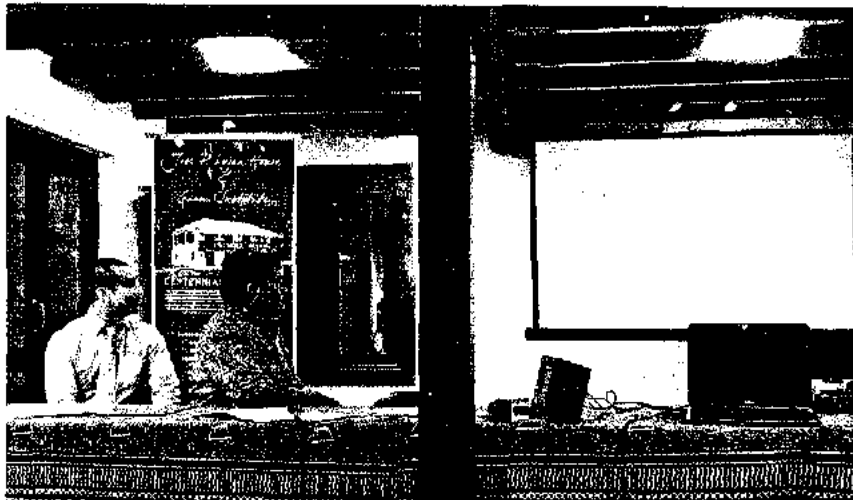
By Zita Y. Taitano  
zita@mvguam.com  
Variety News Staff

HAWAII District Court Judge Leslie Kobayashi has granted the Navy's motion to dismiss the Págat case, saying the case is already moot.

The order issued last Friday came about a month after the Department of Defense announced it would conduct a supplemental environmental impact statement to re-evaluate firing ranges for the Marine Corps when they transfer to Guam.

In the decision, Kobayashi noted the Record of Decision, which the Department of the Navy and the Department of the Army issued in September 2010, was not a final decision as to the location of the live-fire firing range complex discussed.

Atty. Leevin Camacho, a member of We Are Guåhan, issued a statement regarding the decision of the Hawaii



We Are Guåhan spokesman Leevin Camacho and Joe Quinata, chief program officer for the Guam Preservation Trust, hold a video conference with Department of Defense officials with regard to the Págat case. A Hawaii District Court judge has dismissed the case as moot. Zita Y. Taitano / Variety

District Court.

"We wanted the court to continue to oversee the process," Camacho said, "but we are hopeful that DOD will live up to its legal obligations

this time and ensure that the supplemental EIS process is open and honest without the need for court intervention."

The DOD filing stated it would formally commence

the supplemental EIS process in 2012 by holding scoping meetings before preparing and releasing a draft supplemental EIS for comment.

This level of public involve-

ment and participation is something DOD had previously refused to agree to in its motion for voluntary remand filed earlier in 2011.

"Our goal from day one has been to ensure that DOD followed the law," Camacho said. "The preparation of a supplemental EIS is the first victory - a necessary victory - along the way to achieve our ultimate goal of saving Págat Village."

The lawsuit was filed in November 2010 by the Guam Preservation Trust, the National Trust for Historic Preservation, and We Are Guåhan, in order to protect the ancient village of Págat and the surrounding area, which is comprised of two fresh water caves (Págat cave and Marbo cave) as well as significant sites where residents go swimming and fishing.

Meanwhile, a more detailed written order on the decision is expected to follow.

### GOV

employees. The reserved amount is equal to four pay periods.

The 15 percent reserve will also negatively impact the University of Guam by reducing their Fiscal Year 2012 budget by almost \$4 million and the Guam Community College by more than \$2 million, Pangelinan said.

#### Untalan

Meanwhile, Sen. Judi Guthertz last week implored the governor to move Untalan Middle School from its rapidly deteriorating complex to an interim campus at Tiyan.

Guthertz said the 25-acre property was an educational opportunity that should not be allowed to slip away.

"Ideas for utilization of the property are endless and could tie in well with the 'classroom-to-careers' initiative that you've proposed. Perhaps even a new Career and Technical High School could be possible," Guthertz wrote.

The senator also urged



The decrepit state of the Untalan Middle School campus has prompted officials to move for the school's transfer to the former temporary JFK campus in Tiyan. Variety file photo

Calvo to use his executive powers to declare Untalan unsafe to allow its relocation to Tiyan.

"Let's roll up our sleeves and get to work on assisting the Guam Department of Education in responding to this critical need. Let's start the new year off

by blessing the students, parents, faculty and staff of L.P. Untalan Middle School with a safe and structurally sound learning environment. Even if the relocation occurs between now and summer, it is worth the effort," Guthertz said.

### GOV

the case if any decision is made on the matter.

In the brief in support of the motion to dismiss, the plebiscite case was likened to that of "a wolf in sheep's clothing."

Agumon stated the lawsuit by Davis has nothing to do with the discrimination of race or the safeguarding of civil rights, but "seeks to deny a multi-racial, multi-ethnic group of people, namely the pre-1950 residents of Guam and their descendants, from effectively exercising their right to express by plebiscite their desires regarding their future political relationship with the United States of America."

"If and when the time comes, Davis will lose this case on the merits. The Guam statutes he challenges here do not utilize any race-based classification," Agumon stated.

The court document also noted Davis won't be able to prove the plebiscite is race-based, especially since the people who became U.S. citizens from the Organic Act as well as their descendants are now comprised of diverse racial and ethnic groups, to include Caucasians.

Agumon further cited the attorney general's motion to dismiss the case that was filed early last month, which indicated the lawsuit failed to present a justifiable case or controversy. Agumon stated the lawsuit fails for

another reason and "is not ripe for adjudication."

He explained the claimant must "satisfy the threshold requirement imposed by Article III of the U.S. Constitution by alleging an actual case or controversy" and that the policy with regards to what is termed a ripeness doctrine is "to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements."

Additionally, Agumon argued that ripeness of the lawsuit is more a question of timing, thus a federal court probably should not resolve issues on events that may not occur as hoped for or may not even happen.

It was pointed out the plebiscite can only be held on a date of the general election that has 70 percent of eligible voters registered as determined by the Guam Election Commission. There is currently no filing by GEC which shows that percentage was met.

Another issue brought forth was how Davis, who has lived on Guam since 1977, waited until 2009 to contact the Department of Justice over the alleged racial discrimination, and then another two years to file a lawsuit.

"Although much remains to be said on the substantive merits of this lawsuit, including that the Decolonization Registry at issue violates no provision of U.S. or Guam law, immediate dismissal of the above-captioned case is appropriate on ripeness grounds alone," Agumon states.



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75c

## Pangelinan: Plebiscite not a racial issue

By Zita Y. Taitano  
zita@mvguam.com  
Variety News Staff

THE class action lawsuit filed in District Court claiming that the plebiscite to decide Guam's future relationship with the U.S. discriminates against non-native inhabitants is a mischaracterization and misstates the issue of race, said Sen. Ben Pangelinan, who has long been pushing for a political status plebiscite.

"The identification of the native inhabitants of Guam group was done by the U.S. Congress, and it says this is a group of people who were afforded a status based on an act of Congress which they had no say in," Pangelinan said.

"It's definitely not on point," the senator said, referring to the lawsuit.

"I'm calling upon U.S. Attorney Alicia Limtiaco and Attorney General Lenny Rapadas to defend the rights of Guam," he added.

With regard to the plebiscite, Pangelinan said "the right to self-determination is a right of every human being."

As for the claim that the

ISSUE continued on page 2

## Plebiscite lawsuit filed



Mun Su Park, a local attorney of the Law Offices of Park and Associates, talks to the media after filing a lawsuit alleging discrimination in the planned political status plebiscite. David Castro / For Variety

By Zita Y. Taitano  
zita@mvguam.com  
Variety News Staff

A LAWSUIT has been filed in District Court against the Guam Election Commission (GEC), members of the GEC board and Attorney General Lenny Rapadas, alleging discrimination against individuals who are not "native inhabitants of Guam," preventing

them from voting on the decolonization plebiscite that would determine the island's future relationship with the U.S.

The complaint was filed on behalf of the plaintiff, Arnold "Dave" Davis, by local attorney Mun Su Park, of the Law Offices of Park and Associates; J. Christian Adams, of the Election Law Center PLLC in Alexandria, Va.; and Michael E.

Rosman, of the Center for Individual Rights in Washington D.C.

Named in the lawsuit are GEC board members Alice M. Taijeron, Martha C. Ruth, Joseph F. Mesa, Johnny P. Taitano, Donald I. Weakley, and former member Joshua F. Tenorio.

The lawsuit was filed after Davis, a retired U.S. Air Force officer who

PLEBISCITE continued on page 2

## » INSIDE

**BLAS FIRES OFF STRONGLY-WORDED LETTER ON OBAMA'S NO-SHOW**  
SEN. Frank Blas Jr. has written a sarcastic letter to President Barack Obama regarding the President's decision not to meet or see the people of Guam. **Page 5**

**ENTERTAINMENT: 'THE MUPPETS' STAGE A COMEBACK**  
**Page 10**

**SCIENCE: HOW CAN WATER CUT THROUGH STEEL?**  
IF you've ever wondered how water can cut through steel, high pressure is the answer. **Page 14**

**SPORTS: BRADY THROWS 2 TD PASSES AS PATS BEAT CHIEFS**  
**Page 23**

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**GEC**  
faces nearly \$33K in fines for workplace hazards  
See story on page 2

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# GICC faces nearly \$33K in fines for workplace hazards

By Geraldine Castillo  
geraldine@mvguam.com  
Variety News Staff

THE Guam International Country Club (GICC) was cited recently by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) for 17 alleged workplace safety violations, creating proposed fines totaling \$32,900.

According to a press release from U.S. DOL's Office of Public Affairs, the violations were found during an inspection at the club's maintenance shop in Dededo.

Among the serious safety violations are failing to provide training for employees working with hazardous materials; provide appropriate personal protective equipment for eyes and face; provide required forklift training and ensure the forklift had a functioning seatbelt; in addition to multiple electrical



The Guam International Country Club in Dededo was cited yesterday by the Occupational Safety and Health Administration for a number of safety violations in their maintenance shop. David Castro / For Variety

hazards, including the workers' exposure to live electrical parts. "A serious violation occurs when there is substantial prob-

ability that death or serious physical harm could result from a hazard about which the employer knew or should have known," the press release stated. "Employees must be protected against safety

hazards in the workplace, not just because it is the right thing to do, but because it is the law," stated Ken Nishiyama, OSHA's regional administrator in San Francisco. "Workplace safety is critical. OSHA will remain focused on being proactive, especially when workers' safety and health are at stake."

The press release also stated the employer has 15 business days from receipt of its citations and proposed penalties to comply, meet with OSHA's area director, or contest the findings with the independent Occupational Safety and Health Review Commission.

To obtain compliance assistance, file a complaint or report workplace hospitalizations, fatalities or situations posing imminent danger to workers, call OSHA's toll-free hotline at 800-321-OSHA (6742) or the agency's Honolulu Area Office in Hawaii at 808-541-2680.



has lived on Guam since 1977 and voted in many of the island's general elections, applied to register for the plebiscite but was not allowed to sign up because he didn't meet the definition of "native inhabitant of Guam."

Davis informed the U.S. Department of Justice in 2009 that "Guam's discriminatory voting laws facially violate the Voting Rights Act of 1965 (among other statutes)."

Although a news release from the Center for Individual Rights stated the Department of Justice declined to investigate and did not explain its refusal to enforce federal law in Guam, thus forcing Davis to file the lawsuit in order to protect his right to vote.

"There's nothing subtle or indirect or even at all ambiguous about the plebiscite law. It seeks to empower fewer than 40 percent of our population to make a profoundly important political decision on a public matter that's properly and Constitutionally a right of all the people," Davis said.

### Simple issue

He added the matter is a

pretty simple issue. "We're talking about the right to vote for every individual with regard to race [and] sexual preference, unless it's because of certain situations. Every U.S. citizen is entitled to vote under U.S. law," Davis said, citing the Organic Act and the U.S. Voting Rights Act. "All of these are... very clear. That's not the way things are here," he said.

The lawsuit generally requests the court to ask the Guam Election Commission to cease and desist from denying voter registration to non-native inhabitants, which Davis said comprises more than 100,000 people on Guam.

"This is a class action lawsuit. All of those people are automatically parties to this lawsuit," Davis said, adding he's very confident about the case.

"I'm very confident; the law is clear," Davis stressed.

Meanwhile, the Variety caught up with Park yesterday morning after he filed the complaint in District Court. Park said the Guam law on the plebiscite is discriminatory against some Guam voters based on race and color.

"We believe the many

voters on Guam and many residents who call Guam home are excluded from the plebiscite concerning future relations with the U.S.; and only the native inhabitants of Guam can vote," he said.

### Off-island firms

The off-island law firms handling the case said they simply want to ensure the laws of the U.S. are followed.

"We believe the Guam government and the officials who are part of the Guam government are obligated to follow the laws of the United States, which clearly prohibit treating residents differently solely on their race," said Terry Pell, president for the Center for Individual Rights.

"We're not trying to stop the plebiscite, but it should be open to all registered voters regardless of race. It's important that everyone should have an opportunity to vote," he added. "We are hoping the court will open it up regardless of race."

When asked why the governor, the lieutenant governor or the Legislature were not named in the lawsuit, Pell explained they are just asking for the courts to prohibit the enforcement of the law, they are not asking to change the law.

"We're asking the court to

declare the law unconstitutional and enjoin the officials from enforcing it," he said.

And while he understands that the Chamorro people consider themselves native inhabitants, he stressed this is not the basis of the lawsuit.

"The issue in the lawsuit is if the Guam government is allowed to restrict an election by race; and the answer to that question is clearly no," he said.

### Pro bono

Pell also emphasized they are handling the case pro bono, because issues like this is the mission of the firm.

"We raise money from individual contributors. We organize lawsuits that we think have raised important Constitutional principles. Our clients don't pay anything. We represent them free of charge," he said.

Park is the only attorney who is being paid.

Pell further said they've been working on the case for at least six to 12 months, and that cases such as this could last from one to 10 years.

He added that Adams is their lead counsel and will be coming to Guam to assist Attorney Park when the case is scheduled for a hearing in District Court.



complaint is a class action suit, Pangelinan said this still has to be conferred upon by the court.

"The court has to agree to it and there are certain parameters that need to be followed," Pangelinan pointed out.

The complaint names the Guam Election Commission, members of the GEC board and AG Rapadas as the defendants. Not named are Gov. Eddie Baza Calvo, Lt. Gov. Ray Tenorio and the Guam Legislature, the latter of which Pangelinan said he's not sure why.

"I hope the AG defends this in cooperation with the U.S. Attorney to protect Guam's right to self-determination," he said.

Pangelinan also said Arnold "Dave" Davis, who filed the complaint, was not speaking for the majority of people on Guam.

"I just want to say Mr. Davis is one person. I know of many Koreans, Japanese and Chinese, and they tell me they support self-determination just as they support what is going on in their countries. I don't think Mr. Davis is speaking for the entire class if there is such one," Pangelinan said.

Meanwhile, Maria Pangelinan, Guam Election Commission executive director, expressed surprise with the lawsuit.

"We were not notified and I found out it was filed in District Court from the media," she said.

The matter is now being handled by the Guam Election Commission's new legal counsel Jeff Cook, of Cynliffe & Cook, who said he couldn't comment pending further review of the complaint and consultation with his client.

Rapadas also did not have any comment regarding the case.

**Letters to the Editor**

Letters to the editor must carry the full name of the writer, village, and telephone number for verification. Letters addressed to other publications or to third parties and those endorsing particular political candidates are discouraged. All letters are subject to editing. Variety reserves the right to reject any letter. Name withheld and unsigned letters will not see print.

**Thoughts on rhetoric and the political status plebiscite**

A GOVERNMENT official recently described the legal challenge to the forthcoming plebiscite as "divisive." But with all due respect, it's not. And we should all thank God we have the Constitutional right to challenge in the courts any statute that may be unlawful. In any event, the court's decision in this case will be helpful. It will serve to clarify the extent to which, in an unincorporated territory, the U.S. Constitution follows the flag.

Various Chamorro activists argue that in 1950, because Chamorros were not given the opportunity to vote regarding U.S. citizenship and civil government, only they have the exclusive right in 2011 to vote in the plebiscite. As one blogger put it, "Our great grandparents were cheated, but the cheating is as fresh as it ever was."

The previous assertion seems a bit overstated, especially when one reviews the requests and petitions of the Chamorro people as they sought citizenship and civil government. Looking at the actual history, one can see the U.S. wasn't quite the malefactor, as it has often been portrayed locally. Consider the following chronology:

In 1925, members of the Guam Congress met with 11 visiting congressmen to request U.S. citizenship. In 1933, 1935 Chamorro leaders signed "A Petition for American Citizenship" and sent it to President Franklin Roosevelt. In November 1935, the Guam Congress presented to the visiting Secretary of War another petition supporting U.S. citizenship. In 1936, a two-man delegation from Guam consisting of Francisco Leon Guerrero and Balhazar Bordello were sent to Washington to lobby for citizenship and civil government. On January 15, 1949, World War II intervened and the Guam Congress sent another petition for citizenship and self-government to the U.S. Congress.

In November 1949, a special committee from Congress' Public Lands Committee held three days of hearings in Hagåtña, Guam. These hearings were in regard to a proposed Guam Organic Act. During this period, 23 changes were made to the draft, and of the estimated 100 witnesses who testified, none were opposed to the proposed bill.

In April 1950, the Senate Committee on Interior and Insular Affairs held hearings on the Organic Act. Speaking to the Committee were six prominent Guamanians, including Antonio B. Won Pat, speaker of the Guam House of Assembly; and Francisco B. Leon Guerrero, member of the Guam House of Council.

Speaker Won Pat said, "The desire and aspiration of our people to have a legally constituted government and to become citizens of the only country to which we owe our unwavering allegiance have been manifested. Time and again we have asked, petitioned, and supplicated with ever increasing fervency, [for] our just cause."

Notice the date of the Organic Act - 1950. Pedro Sanchez's "History of Guam" was first published in 1964. Not one mention of self-determination or decolonization. The seminal tomes on decolonization by Albert Memmi and Frantz Fanon were not published until 1957 and 1960. UN Resolution 1514, which mandated self-determination for non-self-governing territories, was passed in 1960. Then there is UN Resolution 1541, which detailed the three political status options meeting UN requirements for decolonization. It too was passed in 1960.

The question is why do our local activist groups demonize the U.S. government for not having a self-determination election in 1950? Especially when the concept of self-determination had not yet been fully explicated and the UN had not yet passed its two important resolutions? And since by all accounts the people of Guam were jubilant over these political changes, why in 2011 is there the constant barrage of anti-U.S. rhetoric? Given the dates, I don't think "our great grandparents were cheated." And given their long struggle for citizenship, I don't think these great grandparents felt that way either.

Philip Daulerman,  
Barrigada



**A step forward, three backward**

WHEN someone pays a government obligation using a credit card, the government must take a portion of that payment and pay a service fee to the company handling the transaction. For example, if the payment is for \$100, the government takes approximately \$2 of that \$100 to pay the service fee. This means the government has \$2 less to use for government functions.

This fee the government pays for a customer using a credit card means all those paying with cash or check are subsidizing those using credit cards for their convenience. The total amount that check and cash payers subsidize credit card payers has grown to more than \$4.5 million per year - a significant amount recently noted by the public auditor.

The Fiscal Year 2011 Budget Act required the Department of Administration (DOA) director to contract with a third party provider, effective Jan. 1, 2011, for the processing of credit card payments. This provider was to have the ability to accept credit card payments, but charge the fee to the payer. When it failed to meet this deadline, DOA was granted a three-month extension to put the system in place.

This type of system has been utilized by the Internal Revenue Service and other states and local governments in a similar effort to assist those governments in collecting all the taxes and fees owed to the government, while avoiding any related costs.

Starting Dec. 1, at the call of the governor, the point of service system of accounting for receipt of government payments was discontinued. The payments received are electronically transmitted and posted to the main accounting database at DOA.

Why the contract for this important financial management system tool was cancelled is beyond comprehension. Millions of dollars in revenue now collected must be manually posted in the DOA accounting system. A clerk or accountant now must enter thousands of transactions previously posted automatically in the accounting

ledger. This is a major step backward as it requires either employees to work overtime to keep the posting current, or the reporting of revenue will, in effect, be delayed. Now the government financial management faces difficult control measures and potential audit issues.

I wonder if this is a deliberate strategy on the part of the administration to delay the reporting of revenue collections and shield critical financial information from the Legislature and the people of Guam.

Whatever the reason, it is clear this administration is taking many steps backwards in the efficiency of this government by now having government employees spend endless hours manually entering revenue collections instead of having these transactions processed automatically by a computer. This is not good and efficient use of government resources, and it needs to be fixed right away - especially with the state of government finances as bad as the DOA director and the governor say it is.

In taking the accounting system back to obsolete methods, the governor has done a poor job of implementing the credit card convenience fee processing. For the last two weeks, people have been unable to pay money owed to the government of Guam with credit cards. The ability to use credit cards was halted on Dec. 1, because the government of Guam is transitioning to a new credit card processing vendor.

The establishment of this third-party provider would have saved the government of Guam about \$4.5 million a year and would have potentially prevented the discontinuation of processing credit card payments DOA had onerously executed on Dec. 1. Taking a step backwards in a time when the efficient use of government funds and resources are needed shows a lack of progress with this administration. We must continue to take the necessary steps forward in order to responsibly align the government's revenues with expenditures. Only then will the government be able to cope with future issues that may arise.



Re: Guam needs to redefine itself  
12.2.2011

**Dependent commented:**  
I like what you have to say. There was some literature on Hawaii that it has been trying to diversify away from military and tourism as part of its economic base, but those who are industry insiders have come to the conclusion, maybe prematurely, that it is still the military and tourism that pays its bills, even if it has some new cottage industries driven by new technologies in this regard.

I think small island entities are pretty much stuck on these two main drivers of their economies, for better or for worse. Those who see Guam as being independent of relying on defense-related federal expenditures have a predetermined mindset that anything other than the DOD footprint must be better than living under the thumb of the "oppressors" and those who see Guam as totally relying on tourism are delusional, at best. Maybe their vision for Guam is one that has Guam at pre-contact population levels, with a puritan society to boot.

**Sharksteeth commented:**

This is indeed interesting. One thing I do note, with great regret, is the complete lack of imagination put forth by Guam to create an interesting market. You can only sell so many bags of cookies made in China with Guam written on the bags and call that an industry. We are way too complacent in letting corporate interests dictate where tourists go, what tourists buy, what optional tours are offered and where the tourists stay. As long as the airlines sell blocks of seats at wholesale rates to agents who direct tourists away from smaller local enterprises, our true local tourist industry will always be moribund. We have to figure out a way to change this. Locals know that working for corporate tour businesses often means frequent layoffs, lousy working schedules, constant downward pressure on wages, no health care, little job security, often being asked to work "under the table" or forego overtime payments. Until this fact is realized, there just isn't that much support for the industry here, despite all the advertising to the contrary. It is our GovGuamies that have the 'Zenkoji shobei' attitude, an attitude wherein they do little, expect a lot with little effort, and do not support any type of initiative that would make the tourism business more lucrative for local workers despite the fact that their government wages are paid for by workers in the tourism industry. This might change if by some odd chance in the future the



actual biggest employer of Chamorros was not GovGuam and these folks actually had to face what families who depend on our tourism business have to face.

Re: Thousands pick up long-awaited tax refunds  
12.5.2011

**Trebtor 2008 commented:**

It does not look like the event turned into a "Black Friday" for retailers as the media proclaimed. The parking lots were filled to overflowing all day, preventing any shoppers from parking and shopping. Even food stamp sales were way off at the Pay More Markets at the two shopping centers, because folks had no place to park. The parking lots just cannot handle 3000-plus cars.

Folks in Dededo started to line up at 2 a.m. on Friday and many stood in line for hours. There was heat exhaustion - one lady went into labor and most folks were hot, sweaty, thirsty and furious.

Logic and common sense would dictate there was not enough money on the entire island to cash \$180 million in tax refund checks, yet some media proclaimed retailers were looking forward to the check distributing... Cut that figure in half twice, and you have \$45 million.

Not sure any store has \$45 million on-hand, not sure all the banks lumped together would have that much cash on hand.

The whole event was a political failure by any standards. Pepsi should have just mailed out the checks and in 3 to 6 days, we all would have our checks... We waited half a decade, can we not wait six days?

Can you imagine the trash left behind after the crowd began to leave at 5 or 7 p.m.? The smart shopping center manager would have had 100 to 200 trash cans in place and 100 ashtrays.

A good idea would have been to invest in folding chairs, umbrellas and a roller cooler full of ice water and cold drinks... sell for 300 percent mark up and then go shopping after most folks had left. Enjoy your own cash windfall!



## The next steps

IN 2007, the Legislature - with then-Senators Eddie Calvo and Ray Tenorio voting no - passed a law that provided \$112 million for the payment of past-due tax refunds. The law was signed, the money transferred, and the checks mailed out to residents without having to get in line.

The past couple of weeks, 2- and 3-year-old past-due income tax refunds were a political opportunity not left wanting of exploitation by the current administration. And they gladly used your money once more to advance their political campaign event like no other. At the direction of the governor, government-paid employees shoved political campaign-like messages into the envelopes that wrapped the people of Guam's income tax refunds - as if they were gifts from the governor and lieutenant governor themselves. These actions funded by taxpayer dollars and guided by false mindsets place the integrity of the entire refund distribution in question as the people of Guam were subjected to not only waiting years for refunds, but also waiting hours in line to receive what was justly due to them in the first place.

Easily, more than half a million dollars in taxpayer money was spent promoting the event - from flying out consultants to Guam for the signing of documents, to the distributing of income tax refund checks at non-government-related buildings with government-paid workers attaching political messages promoting the governor and the lieutenant governor. This cost the taxpayer about \$24 per check distributed.

Although early in the fiscal year, revenues are 7 percent below the governor's Fiscal Year 2012 projections, our manamko' are made to live with a decrease in services, and our school children are suffering from excessively hot classrooms - yet the Executive branch finds it feasible to expend money in excess of what would have been necessary if they had simply mailed the

checks out last Thursday.

This income tax refund distribution event places clarity as to the priority of the Executive branch when it comes to government funds. Political and self-promotion are apparently above assistance, service, and nurturing of our youth and our manamko'. Now that income tax refunds from tax year 2010 have been paid, the funds that were set aside in the FY2012 budget now must be the focus and priority of the Executive branch. They must not ignore the budget and the mandates set forth by Guam law which direct the Executive branch to pay income tax refunds as budgeted every single month.

The full-color messages printed specifically for political gain stated, "This is part of the first steps to righting this wrong." This "wrong" mentioned is the underpayment of income tax refunds similar to last fiscal year, wherein the amount of \$50 million in income tax refunds was not paid by the Executive branch. Although I have, and continue to keep, a keen eye on the payment of income tax refunds, it is the governor and his Executive branch that controls the actual payment and following of the mandates set in law.

As the governor and lieutenant governor mentioned in the messages they distributed at their political campaign-like event at Guam shopping centers, this was their first step in correcting the injustice they have imposed on the people. Rest assured, I will continue to keep a close eye on the next steps wherein the payment of income tax refunds shall be the main priority of your government - both the Legislature and the Executive branch.

Following the law and sharpening the mandates set forth in the law will enable the Executive branch to keep up with the payment of income tax refunds well beyond any governor's term in office.



# TechNet 2014



Kian Chamran, of Motorola Solutions Inc., displays one of the company's products during AFCEA Marianas Chapter's TechNet 2014 held at the Hyatt Regency Guam. Access to essential training was the main focus of this year's conference and topics discussed include innovative and green technology, information management, cloud computing, cyber security, and test and measurement. *Mal Weeks / Variety*

# Pangelinan urges caution with rising debt payments

By Laurette Loainic  
louette@mvguam.com  
Variety News Staff

SEN. Ben Pangelinan, the appropriations committee chairman, reacted to last week's issuance of the Office of Public Accountability's Government of Guam Public Debt Performance Audit, saying the report illustrates the growing public indebtedness the government of Guam has experienced over the past six fiscal years.

According to the OPA report, the government of Guam's debt stood at \$1.57 billion in 2013, posing a 54 percent jump from \$1.02 billion in 2008, indicating that each Guam resident's share of public liabilities is approximately \$9,800, account-

ing for a more than 11 percent increase from \$8,810 in 2012 — the highest debt-per-capita among the insular governments.

The OPA audit also explained that the payments necessary to service the government's increased public debt has increased significantly.

"There has been a lot of discussion over the past few years about the government's ability to borrow money as a result of our debt ceiling limitations," Pangelinan said. "In all the discussion, I stated that we focus on the government's ability to repay the money we are able to borrow given the large increases in government operations."

As chairman of the appropriations committee, Pangelinan said he has made it a point to ensure that before any debt service and government operations are funded, that income tax refunds are set aside in the annual government of Guam budget.

"With the tax refund permanent injunction requiring that tax refunds be paid within six months of filing and knowing that debt service payments are increasing, it is imperative that our government move toward a direction that ensures that we can afford tax refunds, debt service payments and government operations," Pangelinan said.

"I appreciate the public auditor's work in announcing to the public the facts and data that truly illustrate the government's increasing debt levels and debt service needs. Public discussion should involve the understanding that it is not how our government can continue to borrow through subverting the debt ceiling, rather, it is what our government can afford," the senator said.

# Minimum wage hike supported

By Frank Whitman  
frank@mvguam.com  
Variety News Staff

A SURVEY of 200 Guam voters indicates overwhelming support for Sen. Benjamin Cruz's proposal to raise the island's minimum wage to \$10.10 over the next three years. Asked, "Do you support raising the minimum wage to \$10.10 over the next three years?" 75 percent of the voters responded yes, 21 percent said no and 6 percent said they didn't know.

The survey was conducted Saturday and Sunday by University of Guam public administration students of Ron McNinch. The survey sample was evenly divided between men and women and had an adjusted ratio of plus or minus 3.5 percent. "There appears to be wide support for this idea," McNinch said.

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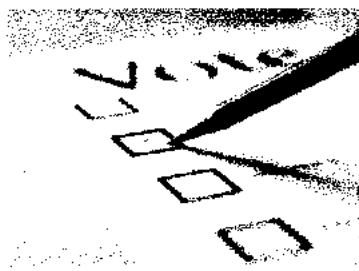
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## Davis v. Guam

NOVEMBER 02, 2015

### MOTION FOR SUMMARY JUDGMENT FILED IN VOTING RIGHTS CASE



CIR plaintiff Arnold Davis is back in the U.S. District Court for the District of Guam to continue his challenge to Guam's race-exclusive plebiscite. In 2013, this same District Court dismissed Davis' lawsuit by saying he had no standing to sue the government of Guam. However, with CIR's help, Davis appealed his case to the Ninth Circuit Court of Appeals. The Ninth Circuit reinstated Davis' case and instructed the District Court that Davis does in fact have standing to have his case considered.

Now Davis is back in the District Court and CIR has renewed the proceedings on his behalf. This week, CIR filed a motion for summary judgment that argues the Constitution unequivocally prohibits Guam from denying Davis – or anyone – the right to vote because of their race.

The Attorney General of Guam filed a motion for summary judgment as well, denying that the race-exclusive provision in this law is unconstitutional. In fact, the Attorney General's brief goes so far as to argue that the Constitution does not control the actions of Guam's government.

Here are some of the core arguments about voting rights from our motion:

1. The Fifteenth Amendment to the Constitution is absolute when it says "The right of citizens of the United States to vote shall not be denied or abridged... on account of race." As the Supreme Court has explained, "race cannot qualify some and disqualify others from full participation in our democracy."
2. Racial voting restrictions violate the Fourteenth Amendment's equal protection clause. The Constitution's promise that all citizens will be treated equally under the law has led the Supreme Court to say that "a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction."

[Read the full motion here.](#)

### CIR challenges Guam plebiscite

CIR is representing Guam resident Arnold Davis in a class action lawsuit challenging a race-exclusive plebiscite on the question of whether Guam should seek independence from the United States, statehood, or some other relationship.

Although a territory of the United States and subject to the Constitution's guarantees of non-discrimination, Guam law permits only those who meet the definition of "Native Inhabitants of Guam" to vote in the plebiscite. CIR's complaint alleges that the definition of this term was designed to limit the vote to "Chamorros," a racial designation referring to the original inhabitants of Guam and their descendants. This group comprises about thirty-six percent of the population of Guam. The law pointedly excludes most Caucasian, black, Korean, Chinese, and Filipino citizens of the United States living on Guam and otherwise registered to vote in Guam elections.



Plaintiff Arnold  
"Dave" Davis

Having been a territory of the United States since 1898, Guam apparently has decided to hold a referendum on its future relation with the United States without allowing nearly two-thirds of its lawfully registered voters to vote — all of them citizens of the United States.

### **DOJ refuses to act**

As troubling as this overtly discriminatory law is, even more difficult to comprehend is the Justice Department's failure to take action against it. Despite its clear authority to enforce federal laws prohibiting race discrimination in voting, the Justice Department declined to intervene when presented with a complaint by Guam resident Arnold Davis, the plaintiff in CIR's suit. Davis, a retired officer in the U.S. Air Force, was told he couldn't register because he was not descended from a native inhabitant; Davis communicated all this to Department officials, but the Department declined to pursue the matter. According to sources, this decision came from political appointees in the Civil Rights Division.



Co-counsel J.  
Christian Adams

The Guam plebiscite bears a strong similarity to Hawaiian laws that formerly limited certain elections to Native Hawaiians. The Supreme Court declared such laws unconstitutional in *Rice v. Cayetano* in 2000. Presumably to get around this problem, Guam claims its plebiscite is not limited by race, but only to native "inhabitants." But this turns out to be a pretext — the law defining "native inhabitant" excludes virtually everyone but "Chamorros." And even if "native inhabitant" didn't exclude other racial groups, it would still violate the Constitution. Voting cannot be conditioned on the accident of one's descent. It must be available to all residents on the same terms.

### **Racial politics**

Guam's status as a U.S. territory has enabled the island to attract individuals from many other countries, notably Korea and the Philippines, who now call Guam their home. In addition, U.S. citizens, including retired members of the U.S. military, have become permanent residents of the island. Yet now, almost two-thirds of the island's residents face disenfranchisement at the hands of the controlling racial group.

The plebiscite is part of a political campaign being waged by a group of Chamorros intent on preserving their power over island affairs. Their tactic is the odious one of building a racial identity for a favored "native" race in opposition to "other" races. Understanding the irrationality of this kind of racial politics, the Constitution does not permit legal classifications built on race.

Though it would be theoretically possible for Guam to secede from the United States in order to pursue its campaign of racial identity, it is not acceptable for it to claim the authority and protection of the United States Constitution and its laws all the while flouting their fundamental principles. And no principle is more fundamental to American democracy than the idea that all citizens have the right to vote regardless of race.

**Case Status:** Pending



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# Chamorro Land Trust bypassed applicants

Pacific Daily News

As a public service, the Pacific Daily News every Wednesday will publish a list of 100 names of those who were skipped in the processing of Chamorro Land Trust applications for agricultural or residential land leases.

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# Ethics co considers

By Brett Kelman  
Pacific Daily News  
bmkelman@guampdn

A legislative committee will decide whether Sen. Rector has conflicting interests as a lawmaker and leader recessed until Friday concerns were raised their legal guidance.

The Committee on Ethics and Standards met briefly yesterday to review a set of procedural rules that will guide them to their decision about Rector. Minority legal counsel Thomas Fisher drafted the rules because legislative legal counsel Therese Tertaje

has previously said she conflict of interest since represents all senators including Rector.

Although several senators were frustrated by Tertaje's absence, Sen. Rory Rector said he agreed that Tertaje might have a conflict of interest.

Fisher might, too, Rector said.

Respcio said a meeting of the public might correct bias if the committees were formed with advice of an attorney represents senators.

Sen. Adolpho Palacio Tertaje should not be allowed to exclude herself without senators' approval. Tertaje

# Tropical storm north of F

By Brett Kelman  
Pacific Daily News  
bmkelman@guampdn

A small tropical storm was forecast to pass just north of Guam instead passed north of Rota yesterday morning, said National Weather Service meteorologist Clint Simpson yesterday.

Parts of northern Guam may have felt 30 mph gusts and heavy showers, but that is not normal on any day, he said.

Rota, Saipan and Tinian felt stronger winds, he said. "This is another situation where, here on Guam

## CHAMORRO LAND TRUST APPLICANTS: DATE SUBMITTED: 12/09/1995

LAST NAME	FULL NAME	APPLICATION RECEIVED AT	SEQUENCE NO.
Aguon	Elma Camacho Aguon	Dededo	1646
Aguon	Felix Castro Aguon	Dededo	1669
Aguon-Hernandez	Bernadita Marie Aguon-Hernandez	Dededo	1670
Aguon-Hernandez	Bernadita Marie Aguon-Hernandez	Dededo	1671
Almoguera	Joey Rivera Almoguera	Astumbo	1725
Baluran	Galo Eric Nadedog Baluran	Piti	1689
Banks	Janice Marie Quintanilla Banks	Dededo	1662
Benavente	Paul Leon Guerrero Benavente	Dededo	1639
Blas	Edward Benavente Blas	Dededo	1673
Blas	Gina L. Blas	Dededo	1641
Borja	Jennifer Bonnie Borja	Astumbo	1710
Borja	Pedro Flores Borja Jr.	Astumbo	1690
Borja	Tael Lynn Borja	Tiyan	1711
Camacho	Anthony John Siguenza Camacho	Dededo	1629
Camacho	Iwalani Rose Quitugua Camacho	Astumbo	1700
Camacho	Veronica Blas Camacho	Astumbo	1688
Castro	Barbara Dolores Mesa Castro	Dededo	1632
Castro	Jose Bernardo Castro	Yona	1530
Chan	Edward Andrew Roberto Chan	Astumbo	1698
Chargualaf	Jose D. Chargualaf	Yona	1521
Chargualaf	Lenora Q. Chargualaf	Piti	1906
Corpuz	Darnell Madarang Corpuz	Dededo	1668
Cruz	Gaylene Bello Cruz	Astumbo	1687
Cruz	Joseph Roland Cruz Jr.	Piti	1902
Cruz	Joseph Roland Cruz Sr.	Piti	1905
Cruz	Kenneth Jerry Cruz	Yona	1514
Cruz	Michelangelo Paul Aguon Cruz	Yona	1509
Cruz	Vincent Gregory Cruz	Astumbo	1719
De Leon Guerrero	Artemio SN De Leon Guerrero	Dededo	1636
DePlata	Femini Afaisen DePlata	Yona	1533
DePlata	John Afaisen DePlata	Yona	1532
Diaz	Antonina Cruz Diaz	Dededo	1652
Diaz	Claire Marie Cruz Diaz	Dededo	1650
Dudkiewicz	Ronald David Dudkiewicz	Merizo	783
Duenas	Kathleen Manibusan Duenas	Dededo	1644
Fejarang	Anthony James Sablan Fejarang	Piti	1880
Fejarang	Estella Untalan Fejarang	Yona	1543
Ferrer	Maria Mandiola Ferrer	Astumbo	1716
Gumataotao	Juan S. Gumataotao	Astumbo	1722
Guzman	Juan Quintanilla Guzman	Piti	1679
Isezaki	Rose Muna Isezaki	Yona	1529
Jesus	Richard Taitano Jesus	Astumbo	1709
Kendrick	Vivian Fejarang Kendrick	Piti	1863
Kinof	Cynthia Meno Barcinas Kintof	Piti	1696
Layco	Anthony P. Layco	Dededo	1659
Leon Guerrero	Gabriel Castro Leon Guerrero	Yona	1544
Maanao	Leannadie Deann Maanao	Piti	1898
Mafnas	James Santos Mafnas	Yona	1507
Mafnas	Joseph Anthony Mafnas	Astumbo	1691
Mafnas	Michael Santos Mafnas	Yona	1506
Mafnas	Rhonda Lyn Mafnas	Astumbo	1689
Manglona	Gwendolyn Villagomez Manglona	Yona	1523
Manibusan	Jose A.E. Manibusan Jr.	Dededo	1649
Manibusan	Robert Kenneth Chaco Manibusan	Dededo	1648
Mendiola	Pedro San Agustin Mendiola	Astumbo	1715
Mendiola	Teresita Cruz Mendiola	Astumbo	1721
Meno	Igriacio Borja Meno	Astumbo	1708
Meno	Joseph Anthony Meno	Piti	1877
Napoleon	Kasio T. Napoleon	Dededo	1643
Naputi	Antonette Cruz Naputi	Yona	1540
Navarro	Warren Peter Navarro	Piti	1908
Nineta	Christopher Anthony Nineta	Dededo	1672
Pablo	Louardes Balajadia Pablo	Dededo	1653
Pangalinan	Gerald Naula Pangalinan	Yona	1512
Pangindian	Jason Fejarang Pangindian	Astumbo	1730
Pereira	Michael Acosta Pereira	Merizo	773
Perez	Ricky H. Perez	Yona	1508
Quinata	John Aguon Quinata	Piti	1897
Quinata	Nancy A. Quinata	Piti	1890
Quinene	Leif Eric Quinene	Yona	1538
Rios	Franklin Duenas Rios	Astumbo	1686
Rojas	Peter John Rojas	Piti	1874
Rosario	Joseph B. Rosario	Piti	1904
Sablan	Magdalena C. Sablan	Dededo	1651
Sablan	Martha DePlata Sablan	Yona	1534
Salas	Francisco Cruz Salas	Piti	1910
Salas	Joseph N. Salas	Piti	1661
Salas	Joseph Nadedog Salas	Piti	1886
San Agustin	Albert Taitano San Agustin	Astumbo	1718
San Agustin	Jennifer June San Agustin	Astumbo	1731
Santos	Tomás Sahagon Santos	Astumbo	1717
Santos	Vanessa Taitingfong Santos	Piti	1912
Siguenza	Eduardo Cruz Siguenza	Astumbo	1702
Sta.Romana	Vincent Leon Perez Sta.Romana	Piti	1903
Superales	Patrick Earl Superales	Dededo	1667
Susuico	Keith Frank Taitague Susuico	Piti	1915
Susuico	Kenneth Jesse Taitague Susuico	Piti	1914
Tainatongo	Doris M. Tainatongo	Yona	1528
Tainatongo	Tara Marie Tainatongo	Yona	1546
Tass	Charlie Ogo Tass	Astumbo	1724
Tass	Charles Anthony Tass	Astumbo	1723
Torre	Anthony James Torre	Dededo	1666
Toves	Calvin Iniate Toves	Yona	1517
Toves	Jesus Quichocho Toves	Piti	1878
Toves	Rosario Balajadia Toves	Dededo	1654
Waits	Tana Matagolai Waits	Yona	1539
Walters	Nadia Anne Artero Calvo Walters	Astumbo	1728
Willsey	John Arthur Willsey	Dededo	1630
Ybarra	Peter F. Ybarra	Yona	1536
Ybarra	Roxanne L. Ybarra	Yona	1537

## Pacific Daily News

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### INDEX

Business R

Islandstyle ..... 30  
Health & Wellness ..... 22  
TV ..... 29  
Sports ..... 38  
Weather ..... 6  
World/Nation ..... 10

### OBITUARIES, ROSARIES

Index to advertisements  
Death Announcements

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# Cruz pi insuran

By Laura Matthew  
Pacific Daily News  
lbrmatthews@guampdn.com

A move to help make home ownership more affordable on Guam by waiving the catastrophic typhoon insurance requirement for concrete and properly shored homes has generated some support.

Vice Speaker Benjamin Cruz has asked Chairman Barney Frank of the U.S. House Committee on Financial Services to support Cruz's effort to have mortgage lending giant Freddie Mac waive the

catastrophic typhoon insurance requirement for typhoon-sturdy homes on Guam.

Many Guam home loans are resold to Freddie Mac, America's biggest home mortgage buyer.

Philip Flores, president and chief executive officer of BankPacific, said he met with a risk manager from Freddie Mac last week in Washington, D.C., on the issue.

He was accompanied by a representative from Guam Delegate Madeleine Bordallo's office. Flores said efforts have the typhoon insurance waived is dependent on a proposal that the risk manager can take to his superiors.

"We need to make sure we put together a proper argument he can bring to his manager," Flores said. "It is a great effort what Cruz is doing, and we are going to help him as much as we can."

Flores said with Guam's strict building codes, typhoons don't cause much damage to a house made of concrete that's equipped with shutters. He said the on damage such a home could sustain is to its paint and water seeping into the home.

The cost of a typhoon insurance for a home could keep some Guam residents from owning a home.

For example, Flores said

## CHAMORRO LAND TRUST APPLICANTS: DATE SUBMITTED: 12/07/1995

LAST NAME	FULL NAME	APPLICATION RECEIVED AT	SEQUENCE NO.	LAST NAME	FULL NAME	APPLICATION RECEIVED AT	SEQUENCE NO.
Aguon	Charles Fred Aguon	Piti	1829	Lukes	Raeann Jean Borja Lukes	Astumbo	1847
Cruz	Jose Rapolla Cruz Jr.	Yona	1489	Richards	Richard Marion Richards	Astumbo	1848
Cruz	Pete Fernando Cruz	Dededo	1591	Rios	Francisco Guerrero Rios	Astumbo	1848
Cruz	Vicente Rivera Cruz	Yona	1471	Taitano	Ramon Quitugua Taitano	Astumbo	1845

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LAST NAME	FULL NAME	APPLICATION RECEIVED AT	SEQUENCE NO.	LAST NAME	FULL NAME	APPLICATION RECEIVED AT	SEQUENCE NO.
Acfale	Jose Quichocho Acfale	Dededo	1855	Joaquin	Evangelina Mafnas Joaquin	Piti	1843
Aguon	Frances Rivera Aguon	Dededo	1638	LaBampa	Jessabelle Casti LaBampa	Yona	1487
Aguon	Peter Cambado Aguon Sr.	Dededo	1616	LaBampa	Paola Casti LaBampa	Yona	1486
Aquino	Joseph B. Aquino	Piti	1854	Leon Guerrero	John D. Leon Guerrero	Merizo	763
Arriola	Anthony Toves Arriola	Yona	1485	Leon Guerrero	Ronald Jesse Leon Guerrero	Yona	1473
Baranda	Arlita P. Baranda	Merizo	758	Lujan	Francisco Cruz Lujan	Piti	1887
Bias	Raymond Matorne Bias	Astumbo	1885	Mabayag	John A.B. Mabeyag	Yona	1505
Borja	Danny L.G. Borja	Yona	1477	Mafnas	Daniel Santos Mafnas	Yona	1501
Borja	Melan Chazo Borja	Dededo	1604	Malanson	Diana M. Cruz Malanson	Dededo	1811
Brown	Andrew Gale Brown	Piti	1880	Mendiola	Felton Guerrero Mendiola	Astumbo	1651
Camacho	Christopher Lujan Camacho	Dededo	1492	Mendiola	John Timothy Mendiola	Dededo	1622
Camacho	Consolacion Rivera Camacho	Yona	1488	Muth	Tarsha Tayama Muth	Astumbo	1654
Camacho	Felixberto Mendiola Camacho Jr.	Piti	2066	Naldas	Sharlene Gogue Naldas	Piti	1846
Castro	Joseph Kumiyama Castro	Astumbo	1684	Navarro	Joseph Finona Navarro	Piti	1839
Castro	Linda A. Castro	Yona	1500	Obarrios	Frances Mantarona Obarrios	Dededo	1628
Celis	John Manibusan Celis	Piti	1844	Palacios	Patricia Untalan Palacios	Dededo	1619
Chinet	Joseph Anthony Chinet	Yona	1504	Pangalinan	Pedro Perez Pangalinan Jr.	Astumbo	1669
Coey	Dorothea Cruz Coey	Dededo	1624	Pangindian	James Fejeran Pangindian	Astumbo	1679
Concepcion	Arthur Neil Concepcion	Astumbo	1655	Parr	Francisco Jose Salas Parr	Piti	1831
Concepcion	Grace Marie Salas Concepcion	Astumbo	1653	Perez	May C. Perez	Astumbo	1674
Concepcion	John Salas Concepcion	Astumbo	1650	Quenga	Albert John Quenga	Dededo	1600
Cordero	Pearla Pablo Cordero	Piti	1883	Quintanilla	Ignacio Perez Quintanilla	Dededo	1597
Crisostomo	Roque Acfale Crisostomo	Dededo	1595	Raphael	Margaret Jean Raphael	Dededo	1620
Cruz	Frank Salas Cruz	Astumbo	1662	Rivera	Louides Jubilado Rivera	Yona	1480
Cruz	Kimberly Jo Samiento Cruz	Piti	1866	Sablan	Arlinda Ann Sablan	Dededo	1605
Cruz	Leticia Borro Cruz	Dededo	1625	Sablan	Jesse Lizama Sablan	Dededo	1601
Cruz	Paul Anthony Cruz	Piti	1833	Sablan	Larry Rosa Sablan	Astumbo	1658
Cruz	Peter Vincent Gogue Cruz	Piti	1834	Salas	Joaquin Pablo Salas	Piti	1858
Cruz	Prinella Marie Gogue Cruz	Piti	1835	San Nicolas	Francisco Guerrero San Nicolas	Yona	1499
Damian	Jesus Anderson Damian	Astumbo	1654	San Nicolas	Tisha Lynn San Nicolas	Dededo	1623
Delfin	Elaine B. Delfin	Astumbo	1678	Santiago	MaryAnn Cruz Santiago	Merizo	762
Delgado	Eric Anthony Ninete Delgado	Astumbo	1657	Santos	Eugene A. Santos	Piti	1851
Delgado	Stephenie N. Delgado	Astumbo	1656	Santos	Stanley James Santos	Piti	1849
Diaz	Florence Untalan Diaz	Astumbo	1675	Santos	Vincent E. Santos	Piti	1853
Duanas	Robert James Duanas	Astumbo	1685	Santiago	Jessie Joseph Santiago	Dededo	1615
Elm	Andy Rodney Sablan Elm	Yona	1472	Solivar	Arlene Toves Solivar	Astumbo	1652
Fejarang	Joseph R. Fejarang	Piti	1847	Tajeron	Norma Therese Tajeron	Yona	1503
Flauta	Erwin Flores Flauta	Astumbo	1661	Taitague	Rodney Crisostomo Taitague	Piti	1850
Flores	Raymond Joseph Flores	Piti	1845	Tokledo	Rose Marie Meno Tokledo	Yona	1490
Gairido	Richard Perez Gairido	Piti	1856	Tolerino	Rosalie Borja Tolerino	Merizo	780
Gogue	Joy Anthony Gogue	Piti	1842	Toves	Alvin C. Toves	Yona	1484
Gumabon	Cheryl Lynn Gumabon	Astumbo	1670	Ulloa	Manuel R. Ulloa Jr.	Merizo	759
Gumataotao	Joseph Jr. Terlaje Gumataotao	Piti	1859	Untalan	Jesse Iriarte Untalan	Astumbo	1676
Guzman	David Lanner Guzman	Piti	1868	Untalan	Marie Darlene G. Untalan	Dededo	1626
Harris	Jacqueline Tenorio Harris	Astumbo	1663	Untalan	Pauline Iriarte Untalan	Dededo	1618
Hocog	Teddy S. Hocog	Astumbo	1682	Ybarra	Daniel J. Ybarra	Yona	1489

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### INDEX

Business	8	C
Classifieds	26	D
Comics/Horoscope	24	M
Editorials/Letters	14, 15	V
Islandstyle	22	R
Health & Wellness	16	M
TV	21	B