



HOUSE OF REPRESENTATIVES
TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500586, SAIPAN, MP 96950

Ivan A. Blanco
Chairman
Judiciary and Governmental Operations Committee

STANDING COMMITTEE REPORT NO. 20-9
DATE: MARCH 16, 2017
RE: HOUSE BILL No. 20-033

The Honorable Rafael S. Demapan
Speaker of the House of Representatives
Twentieth Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which House Bill No. 20-033 was referred, entitled:

“To amend 2 CMC § 4435(f) and to repeal 2 CMC § 4435(h) to expand the use of lease agreement payments to supplement housing assistance; and for other purposes.”

begs leave to report as follows:

HOUSE CLERK'S OFFICE
RECEIVED BY *[Signature]*
DATE *3/22/17* TIME *4:12pm*

I. RECOMMENDATION:

After reasonable discussion and deliberation on the bill, the Committee recommends that the House pass House Bill No. 20-033 in its current form.

Committee on Judiciary and Governmental Operations
Ivan A. Blanco

John Paul P. Sablan • Francisco C. Aguon • Edwin P. Aldan • Blas Jonathan “BJ” T. Attao • Glenn L. Maratita • Edmund S. Villagomez

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 20-033 is to eliminate the lease agreement requirement to replace the Annex housing units because there are sufficient housing assistance units or vouchers to accommodate those qualified for such programs; and to expand the use of the lease agreement payments to include supplementing and leveraging NMHC and HUD's housing assistance and loan programs as well as other federal and local housing and community programs offered or administered by NMHC.

B. Committee Findings:

Your Committee finds that on July 28, 1989, Public Law 6-34 was enacted authorizing the Northern Marianas Housing Corporation (NMHC) to lease for commercial development certain lands situated in the North Garapan Subdivision Annex No. 2, property that was originally conveyed to NMHC's predecessor *Mariana Islands Housing Authority*. Public Law 6-34 further required the following: (1) that all 45 existing housing units currently controlled by NMHC at the subject property be replaced by decent, safe, sanitary housing at another suitable location; (2) that all requisite infrastructure facilities be installed and operational for said replacement housing; and (3) that all current tenants of Annex No. 2 Section 8 housing, who so desire, be relocated to the replacement housing before commencement of demolition of the existing housing or construction of the proposed development.

Your Committee further finds that since the enactment of Public Law 6-34, NMHC had unsuccessfully attempted several times to lease said property under the terms and conditions enacted by law. As stated in the attached letter from the Corporate Director of NMHC:

"The unsuccessful attempts to transact the lease were attributable to impeding conditions as follows:

- 1) the enabling law requires the successful lessee to pay for the relocation and replacement costs of the subject property before any development takes place;
 - 2) the law also requires the lessee to pay "upfront cash payments" to NMHC which will be used by NMHC to pay its unpaid obligations as listed in Attachment "A" of the law;
 - 3) the mandated uses of the lease revenue proceeds are too restrictive and dated; and
 - 4) the potential aggregate costs to the lessee far exceeds the appraised value (and unsolicited offer prices) of the subject property."
-

Furthermore, your Committee is in agreement with the Corporate Director of Northern Marianas Housing Corporation in that (1) Section 3 of the proposed legislation repealing §4435 of 2 CMC is imperative in that it eliminates the impediments that prohibit NMHC from a realistic chance to market the premises successfully, “PL 6-34 mandated selling or long-term lease price is unattainable because mandated price (the sum of the costs-to-lessee) far exceeds the price that NMHC can expect to transact the property under the current real estate market conditions (market price).”

Your Committee finds it necessary to make amendments to the existing statute, the purpose of this legislation is to eliminate the lease agreement requirement to replace the Annex housing units because there are sufficient housing assistance units or vouchers to accommodate those qualified for such programs; and to expand the use of the lease agreement payments to include supplementing and leveraging NMHC and HUD’s housing assistance and loan programs as well as other federal and local housing and community programs offered or administered by NMHC. Therefore, the Committee is in full accord with the provisions of House Bill No. 20-033 and recommends its passage.

C. Public Comments:

Comment(s) were solicited from various agencies. Comment(s) that were received before Committee action were from:

- Jesse S. Palacios, Corporate Director, Northern Marianas Housing Corporation.

Corporate Director Palacios is in full support of the legislation.

D. Legislative History:

House Bill No. 20-033 was introduced by Representative Edwin P. Aldan on January 31, 2017 to the full body of the House and was referred to the House Standing Committee on Judiciary and Governmental Operations for disposition.

A similar legislation namely Senate Bill No. 19-114, was introduced by Senator Arnold I. Palacios on September 12, 2016 and was passed by the full body of the Senate on December 02, 2016. Senate Bill No. 19-114 was transmitted to the House as Senate Communication 19-243 on December 05, 2016. No further action was taken by the House.

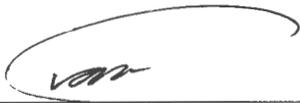
E. Cost Benefit:

The enactment of House Bill No. 20-033 will not result in additional costs to the CNMI Government for the intent of the proposed legislation is to amend and repeal existing statute to expand the use of lease agreement payments to supplement housing assistance.

III. CONCLUSION:

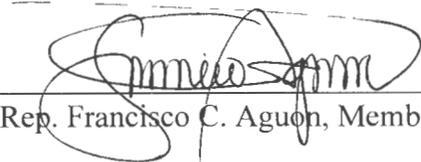
The Committee is in full accord with the provisions of House Bill No. 20-033 and recommends the passage in its current form.

Respectfully submitted,



Rep. Ivan A. Blanco, Chairman

Rep. John Paul P. Sablan, Vice Chairman



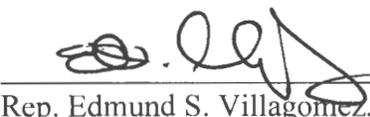
Rep. Francisco C. Aguon, Member

Rep. Edwin P. Aldan, Member



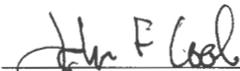
Rep. Blas Jonathan "BJ" T. Attao, Member

Rep. Glenn L. Maratita, Member



Rep. Edmund S. Villagomez, Member

Reviewed by:



House Legal Counsel

Attachment: Letter dated March 14, 2017 from the Northern Marianas Housing Corporation.

TESTIMONY
IN SUPPORT OF HOUSE BILL 20-33

Submitted
By

JESSE S. PALACIOS
Corporate Director
NORTHERN MARIANAS HOUSING CORPORATION

To

THE HOUSE OF REPRESENTATIVES
NORTHERN MARIANA ISLANDS LEGISLATURE

March 14, 2017

My name is Jesse S. Palacios, Corporate Director, Northern Marianas Housing Corporation (“NMHC”). I gratefully submit this testimony on behalf of NMHC.

NMHC supports the enactment of the Bill, and herein provides the reasons for its support.

NMHC’S Perspective on Public Law 6-34

More than twenty-seven years ago, on July 28, 1989, Public Law 6-34 was enacted authorizing NMHC to lease NMHC real property commonly known as North Garapan Subdivision Annex No. 2. for commercial development, subject to certain terms and conditions. (The property was originally conveyed to the Mariana Islands Housing Authority, (NMHC’S predecessor) by the Trust Territory government on February 25, 1965.) Since the enactment of Public Law 6-34, NMHC had unsuccessfully attempted several times to lease the subject property under the terms and conditions imposed by law.

The unsuccessful attempts to transact the lease were attributable to impeding conditions as follows:

- 1) the enabling law requires the successful lessee to pay for the relocation and replacement costs of the subject property before any development takes place;
- 2) the law also requires the lessee to pay “upfront cash payment” to NMHC which will be used by NMHC to pay its unpaid obligations as listed in Attachment “A” of the law;
- 3) the mandated uses of the lease revenue proceeds are too restrictive and dated; and
- 4) the potential aggregate costs to the lessee far exceeds the appraised value (and unsolicited offer prices) of the subject property.

House Bill 20-33 repeals and amends Public Law 6-34 to repeal or amend the impeding conditions cited above.

NMHC’s Perspective on House Bill 20-33

In summary, the Bill proposes to repeal or amend specific provisions of CNMI Public Law 6-34. Listed hereunder are the corresponding reasons to repeal or amend specific provisions of the law.

- A. The lead statement of 2 CMC § 4435(f) is amended to provide a more concise statement of purpose and “earmarking” of lease proceeds to harmonize with and fund NMHC objectives

to deliver housing assistance, housing loans and loan guarantees, community planning and development assistance independently and in partnership with the United States government agencies.

B. 2 CMC § 4435(f) (2) is amended to state: “To provide working capital for NMHC Direct Family Home Loan Program (“DFHL”). This addition to the existing law unequivocally enables NMHC to use the lease proceeds to finance NMHC’s local housing loan program”.¹ The most significant reasons that NMHC needs to use a portion of the lease proceeds to capitalize its DFHL are twofold:

1. Funding from the federal government (HUD) to capitalize housing loans has decreased dramatically over at least the last seven years, constricting the number and size of HUD-assisted housing loans within the CNMI-wide community while at the same time labor and material costs have gone up.
2. Cash collections of loan payments from the DFHL program had been exclusively placed in a restricted loan guarantee reserve account to underwrite NMHC’s guarantee of the USDA Rural Development loans already issued and outstanding within the CNMI. (In practice, USDA had twice over the last six years called on NMHC’s guarantee and NMHC had to pay USDA a total \$ 3,197,316. The funds to pay USDA-RD came from the restricted loan guarantee reserve account.) Under this contracted arrangement, NMHC has restricted access to the loan payments of the DFHL program. In summary, the cash collections from NMHC local loans are not available for additional NMHC loans. As a result, NMHC had imposed a loan moratorium on its DFHL program in 1997. That moratorium is still imposed at this time.
3. The 2 CMC § 4435(f)(2) amendment will provide the enabling conditions for NMHC to lift the moratorium to enable NMHC to afford more housing-ownership

¹ The NMHC Direct Family Home Loan Program is NMHC’s locally-funded housing loan program wherein the source of funding is drawn locally – primarily from collections of existing loan payments. This program is different from the HUD-assisted HOME Partnership Investment Program which is funded by HUD.

loans to low and moderate income families.

- C. 2 CMC § 4435(f)(3) is amended to allow CNMI-wide use of the lease proceeds, in contrast to the provision of Public Law 6-34 which restricts the usage to the Senatorial District of Saipan only. This amendment enables NMHC with policy and managerial discretion to use the lease proceeds where they are most needed to meet NMHC missions and objectives to deliver decent, safe and sanitary housing on a CNMI-wide basis.
- D. 2 CMC § 4435(f)(4) is added as such: "To defray the costs of administering and managing NMHC's housing assistance programs, housing loan and loan guarantee programs, community development programs, and other programs that NMHC may administer in the future."

This amendment is fostered by three main factors:

1. With the decrements of HUD funding assistance over the last several years, NMHC received less and less funds from HUD to manage and administer HUD-funded programs. (The imbedded view sponsored by HUD's assistance to CNMI is that there has to more and more cost-sharing output from CNMI.)
2. With the mandated placement of cash collections of loan payments into a restricted loan guarantee reserve account to underwrite the USDA Rural Development loans, NMHC does not have access to these funds to pay the management and administrative costs directly and indirectly associated to the NMHC-administered local loan programs; and
3. Cash collections of HUD's HOME loan payments are restricted by HUD to provide additional loan funds such that these collections are not available to pay for the management and administrative costs directly and indirectly associated to the NMHC administered HOME loan programs.

The aggregate results of the aforementioned factors create a shortage of funds to finance NMHC's personnel compensation costs, capital improvements, transportation costs, facilities maintenance costs, and operation and administrative costs. It is relevant to mention at this point that NMHC does not receive any funding from the CNMI general fund's annual appropriations for its operations.

Herein lies the need to liberate the restrictive usage of the lease proceeds as imposed by Public Law 6-34 and allow NMHC the policy and managerial discretion to finance the unfunded costs of managing and administering its housing and community development programs.

Consequently, this underwrites the need for the subject amendment.

E. Finally, 2 CMC § 4435(h) is repealed in its entirety.

House Bill 20-33 repeals this provision that mandates the replacement of the forty-five (45) North Garapan Subdivision Annex No. 2 housing units with housing units at another location to be built from the lease proceeds.

NMHC supports this provision of the Bill for two significant reasons:

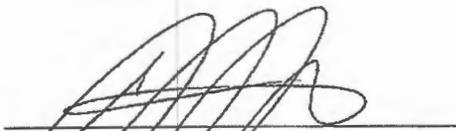
1. The 45 North Garapan Subdivision Annex No. 2 housing units had already and more than sufficiently been replaced by 363 Section 8 Voucher housing units and 118 Section 8 Multifamily housing units in NMHC's Mihaville, Koblerville, Timian and Rota housing subdivisions. In summary, NMHC's 45 housing tenants were not displaced. Rather, they had been accommodated through placement in housing units under both the Voucher Program and the Multifamily Program. Thus, the safeguard mandated by Public Law 6-34 to prevent the deprivation of the housing units of North Garapan Subdivision Annex No. 2 tenants had been met, making the mandate unnecessary.
2. After several certified market value appraisals of the premises, it was amply and consistently clear that the PL 6-34-mandated selling or long-term lease price is unattainable because mandated price (the sum of the costs-to-lessee) far exceeds the price that NMHC can expect to transact the property under the current real estate market conditions (market price). (Please see Appraiser's communication on Appendix A.)

2 CMC § 4435(h) must be repealed to eliminate the impediments that prohibit NMHC from a realistic chance to market the premises successfully under the current real estate market conditions, or any market conditions for that matter.

Relevant Background Information about NMHC

- A. NMHC was originally established as Mariana Islands Housing Authority (MIHA), a public and corporate entity, on January 7, 1978 by enactment of Marianas District Law 5-6. On August 23, 1994, Executive Order 94-3 abolished MIHA and its functions were transferred to the Commonwealth Development Authority, under which it currently operates.
- B. NMHC's total annual operating budget for Fiscal year 2017 is \$2,569,256 with 34 FTEs. This amount is approximately \$485,000 or 15% less than the previous year. The largest component of the budget is personnel compensation of \$1,690,105, inclusive of base salaries and wages, personnel benefits, and reserve for merit increase. This amount makes up two-third of the operating budget.
- C. NMHC currently provides Section 8 housing assistance to 427 families comprising of 1,915 household members. Over the years, it also provided 931 home loans benefitting 2,356 family members. (Please see Appendix B.) At a minimum, NMHC had extended housing rental assistance and housing loans to 1,412 families comprising of 4,271 household members.

Respectfully,



Jesse S. Palacios
Corporate Director, NMHC

Office of Rep. Ivan Blas
RECEIVED
 DATE: 3/16/2017

Appendix ~~B~~A



April 26, 2016

Board of Directors
 Northern Marianas Housing Corporation ("NMHC")
 P.O. Box 500514
 Saipan, MP 96950-0514

Dear NMHC Board of Directors,

On October 6, 2015 CVG completed Consulting Services on Former Mihaville Subdivision Site (AKA Northern Garapan Annex I & II Property). Further, on April 25, 2016, Edward Sablan-Chairman, Diego Songao-Director, Aubry Hocog-Director and Rex Palacios-Chief Financial Officer met with us at the CVG office in Guam.

During the meeting, Mr. Rex Palacios provided us with the current obligations figure as referred to in Public Law 6-34 and also provided estimated amount of the replacement of the 45 structures. Board member Mr. Songao requested us to review the marketability of the property in lieu of P.L. 6-34 requirements.

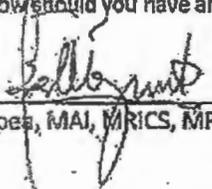
We have summarized the market value and the P.L. 6-34 shown as follows.

Type	Market Value	Public Law 6-34 Requirement	Comments
Date	Feb-15	Jul-89	
Estimated	\$7,750,000	\$6,750,000	Structure Replacements
		\$10,000,000	Estimated Obligations
	\$7,750,000	\$16,750,000	Plus Future Rents

¹Based on Appraisal Report completed by Lilio Tipples
²As provided by Mr. Rex Palacios

As shown above, the financial obligations required by the P.L. appears to be substantially above market value. Therefore, the marketability of the project becomes substantially unattractive for developer. The property has been underutilized since the issuance of the Public Law 27 years ago. The Public Law appears to be outdated and require amendments to better reflect the current market conditions and/or market value and attract investors.

Please let us know should you have any questions.

Sincerely,


 Siska S. Hutapea, MAI, MRICS, MRE
 President



Appendix A'B

**Number of Individuals Assisted by NMHC Housing Loan and Assistance Programs
As of September 30, 2016**

A. Number of persons housed under NMHC Section 8 Housing Programs						
Section 8 Programs	TOTAL	SPN			TIQ	ROP
		Mihaville	Koblerville	Total		
Voucher Program	1,437	NA	NA	1,387	15	35
Multifamily Program	478	226	141	367	74	37
TOTAL	1,915	226	141	1,754	89	72
B. Number of Housing Vouchers and Multifamily Housing Units managed by NMHC						
Section 8 Programs	TOTAL	SPN			TIQ	ROP
		Mihaville	Koblerville	Total		
Voucher Program	363	NA	NA	348	4	11
Multifamily Program	118	48	34	82	20	16
TOTAL	481	48	34	430	24	27
C. Number of housing applicants on NMHC's Wait-list						
	TOTAL	SPN			TIQ	ROP
		Mihaville	Koblerville	Total		
Applicants on Waiting List ¹	278	NA	NA	259	19	-
D. Number of Families and Persons Assisted With NMHC Housing Loan Programs						
Housing Loan Program All Three Islands	Number of Families	Number of Persons				
	931	2,356				
E. Number of Families and Persons Assisted by NMHC Loans and Section 8 Housing						
Number of Families	1,412					
Number of Persons		4,271				

¹ Note that this is number of applicants, not number of persons.

Twentieth Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

Session, 2017

H. B. 20- **33**

A BILL FOR AN ACT

To amend 2 CMC § 4435(f) and to repeal 2 CMC § 4435(h) to expand the use of lease agreement payments to supplement housing assistance; and for other purposes.

**BE IT ENACTED BY THE TWENTIETH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature finds that Public
2 Law 6-34 authorized the Northern Marianas Housing Corporation (NMHC),
3 subject to certain terms and conditions, to lease for commercial development
4 certain lands situated in the North Garapan Subdivision Annex No. 2. Public Law
5 6-34 further required the following: (1) that all 45 existing housing units currently
6 controlled by NMHC at the subject property be replaced by decent, safe, sanitary
7 housing at another, suitable location; (2) that all requisite infrastructure facilities
8 be installed and operational for said replacement housing; and (3) that all current
9 tenants of Annex No. 2 Section 8 housing, who so desire, be relocated to the
10 replacement housing before commencement of demolition of the existing housing
11 or construction of the proposed development.

1 The Legislature finds that although NMHC opted out of the U.S.
2 Department of Housing and Urban Development's (HUD) Section 8 Housing
3 Assistance Payments Contracts rental housing program in 1997 and 1999 for the
4 Annex subdivision, none of the tenants of the Annex No. 2 housing have been
5 displaced. In fact, the tenants were accommodated either under the HUD Section
6 8 Housing Choice Voucher Program, through which they were provided housing
7 assistance vouchers to rent privately-owned dwellings or the HOME Program for
8 first-time homeowners.

9 The Legislature further finds that currently, the United States Internal
10 Revenues Service's Low Income Housing Tax Credit Program (LIHTC) which is
11 administered locally by NMHC has currently produced and placed in service for
12 rent a total of 189 additional units for families whose household incomes are at 60
13 percent or below the HUD income limits; thereby negating the reduction of the 45
14 rental housing units when NMHC opted out of the rental housing units. As a
15 matter of fact, the current number of housing assistance units administered by
16 NMHC totals 670 housing units or vouchers, comprising of 363 housing choice
17 vouchers, 118 multifamily units, and 189 LIHTC housing units. NMHC
18 anticipates the increase in housing assistance in the near future will comprise of a
19 combination of additional LIHTC units and project-based vouchers.

20 Therefore, the purpose of this legislation is to eliminate the lease
21 agreement requirement to replace the Annex housing units because there are
22 sufficient housing assistance units or vouchers to accommodate those qualified for

1 such programs; and to expand the use of the lease agreement payments to include
2 supplementing and leveraging NMHC and HUD's housing assistance and loan
3 programs as well as other federal and local housing and community programs
4 offered or administered by NMHC.

5 **Section 2. Amendment.** 2 CMC § 4435(f) is hereby amended to read as
6 follows:

7 ~~“(f) That payments to MIHA under the lease agreement~~
8 ~~shall be segregated from all other income or receipts of MIHA, shall be~~
9 ~~subject to annual audit by the Commonwealth Public Auditor, and shall be~~
10 ~~used solely for the following purposes: That payments to NMHC under~~
11 ~~the lease agreement shall be set aside and earmarked to supplement and~~
12 ~~leverage HUD's housing assistance and loan programs, community~~
13 ~~planning and development programs; the United States Department of~~
14 ~~Agriculture Rural Development (USDA-RD) housing loan and community~~
15 ~~planning and development programs, and other similar programs available~~
16 ~~under the U.S. federal government; the NMHC direct family home loan~~
17 ~~program; and also shall be used for the following purposes:~~

18 (1) To meet the obligations of ~~MIHA~~ NMHC, ~~as~~
19 outstanding at the time of execution of the lease;

20 (2) ~~To assist in providing infrastructure for existing and~~
21 ~~future Marianas Public Land Corporation village homestead~~
22 ~~developments, to the extent that FHA, FmHA, and other low~~

1 interest or guaranteed mortgage programs thus become available to
2 low and moderate income persons building homes in the
3 homesteads; and

4 (2) To provide working capital for NMHC direct family
5 home loan program;

6 (3) To assist in providing infrastructure for existing and
7 future village homestead developments for the islands of Saipan
8 and the Northern Islands, Rota, and Tinian to the extent that FHA,
9 USDA RD, and other low interest or guaranteed mortgage
10 programs thus become available to very-low, low and moderate
11 income families building homes in the homesteads; and

12 (4) To defray the costs of administering and managing
13 NMHC's housing assistance, housing loan and loan guarantee
14 programs, community development programs, and other programs
15 that NMHC may administer in the future."

16 **Section 3. Repealer.** 2 CMC § 4435(h) is hereby repealed in its entirety:

17 ~~"(h) That all existing housing currently controlled by MIHA~~
18 ~~at the subject property be replaced by decent, safe, sanitary, housing at~~
19 ~~another suitable location, that all requisite infrastructure facilities be~~
20 ~~installed and operational for said replacement housing, and that all current~~
21 ~~tenants of the Garapan Section 8 housing, who so desire, be relocated to~~

1 the replacement housing, before the commencement of demolition of the
2 existing housing or construction of the proposed development.”

3 **Section 4. Severability.** If any provision of this Act or the application of
4 any such provision to any person or circumstance should be held invalid by a
5 court of competent jurisdiction, the remainder of this Act or the application of its
6 provisions to persons or circumstances other than those to which it is held invalid
7 shall not be affected thereby.

8 **Section 5. Savings Clause.** This Act and any repealer contained herein
9 shall not be construed as affecting any existing right acquired under contract or
10 acquired under statutes repealed or under any rule, regulation or order adopted
11 under the statutes. Repealers contained in this Act shall not affect any proceeding
12 instituted under or pursuant to prior law. The enactment of this Act shall not have
13 the effect of terminating, or in any way modifying, any liability civil or criminal,
14 which shall already be in existence at the date this Act becomes effective.

15 **Section 6. Effective Date.** This Act shall take effect upon its approval by
16 the Governor or upon its becoming law without such approval.

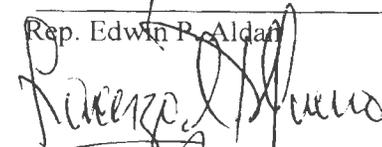
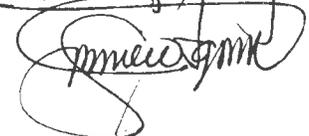
Prefiled: 1/30/17

Date: 1/30/17

Introduced by:


Rep. Edwin P. Aldan

Reviewed for Legal Sufficiency by:


House Legal Counsel