Dipåttamenton Kontribusion yan Adu'ånå
DEPARTMENT OF
REVENUE AND TAXATION
GOVERNMENT OF GUAM Gubetnamenton Guåhan

LOURDES A. LEON GUERRERO, Governor / *Maga'håga*
JOSHUA F. TENORIO, Lt. Governor / *Tiñente Gubetnadot*

DAFNE MANSAPIT-SHIMIZU, Director
Direktot
MARIE P. LIZAMA, Deputy Director
Segundo Direktot

GUAM REAL ESTATE COMMISSION MEETING MINUTES

Date and Time: Thursday, August 17, 2023 at 2:00pm

Zoom: Meeting ID 864 1099 7346, Passcode 6351844671
Zoom Link: *https://us02web.zoom.us/j/86410997346?pwd=RmhGcU1ETHhCRXJHRW1BVU8yZXdmZz09*

Facebook Live: Guam Department of Revenue & Taxation

Commission Members Present:

Frank Pangelinan, Chairman
Richard Gutierrez, Vice-Chairman
Attorney Ryan Marsil Johnson, Member
Clare Delgado, Member
Alexandria "Sandy" Gould Yow, Member
Alice Sebastian-Cruz, Secretary

Department of Revenue and Taxation (DRT) Representative Present:

Michele Marie R. Rabago – Regulatory Examiner

1. **Call Meeting to Order** – Chairman Pangelinan called the meeting to order on Thursday, August 17, 2023 at 2:03pm.

2. **Attendance – Roll Call** - Roll call of Commission Members was taken by Chairman Pangelinan. A quorum was present. All were present except for Member Ramon Puangco.

3. **Approval of Minutes of Dated March 21, 2023** – A motion was made by Member Delgado to approve the minutes of the last meeting dated March 21, 2023 and seconded by Vice-Chairman Gutierrez. Agenda was unanimously approved by the Commission.

4. **Seller's Disclosure** – Sample copies of Seller's Disclosure forms and requirements from different states were sent by Member Attorney Johnson via Chairman Pangelinan this morning. In the previous meeting a discussion took place regarding the correcting, updating, revising, and strengthening of the proposed Guam's Seller's Disclosure form, requirements, and laws. Due to Typhoon Mawar in May and the recovery period, the Commission has not had the opportunity to go over the details since the last meeting. The following were suggested:

   - Establish a working committee to do open working sessions involving the Commission, the Guam Association of Realtors (GAR), the real estate industry, and the public to go over the forms, requirements, and the laws;
   - Circulate the proposed changes to the form, requirements, and laws to the industry for review and input;
   - Schedule a meeting via Senator Sabina Perez's Office as they would know the requirements with regard to ensuring the Commission is in compliance with the Open Government Law.

   With the delays of the COVID-19 pandemic and the Typhoon, Chairman Pangelinan emphasized the urgency to start addressing the issues with the Seller's Disclosure and Title 21 GCA Chapter 104 Law, as it has been three (3) years since these items have been sitting on the agenda, by recommending meeting more often than once per quarter.

Chairman Pangelinan also recommended establishing working committees with Member Attorney Johnson to which Vice-Chairman Gutierrez, Member Delgado, and Member Yow volunteered to assist. Chairman Pangelinan would like for the working committee to have a draft proposal ready to present for the next meeting.

It was decided by the Commission to have the next meeting on Thursday, October 19, 2023 and reschedule the Tuesday, December 19, 2023 meeting for Thursday, December 14, 2023, due to members going off-island for the holidays.

5. **Title 21 GCA Chapter 104** – Chairman Pangelinan reported he received GAR's proposed revisions to Title 21 GCA Chapter 104 this morning which the Commission has not had the opportunity to review and digest. Chairman Pangelinan suggested another working committee be established to go over the proposed revisions made by GAR to which Member Delgado expressed her willingness to assist the Commission by stating to Chairman Pangelinan to "put us where you need us" to which Member Yow was in agreeance.

   The Commission had a discussion on *Title 21 GCA §104303(b) Additional Grounds for License Suspension or Revocation* whereby the Real Estate Commissioner may suspend or revoke a license of any real estate license to a licensee who has "entered a plea of guilty of nolo contendere". It was discussed that the law should have read "entered a plea of guilty ***or*** nolo contendere" not "of" as they are two separate and different pleas. Again, another example of an issue of the law should be addressed and revised.

6. **Indictments and Plea Agreements of Licensed Individuals** – A guilty plea of a crime made by a real estate licensee was brought up. In reference to Title 21 GCA §104303(b), the Real Estate Commissioner cannot revoke or suspend the real estate license based on the way it is currently written as the licensee entered a plea of guilty and not a plea of guilty of nolo contendere. Member Attorney Johnson mentioned there are two parts: entering a plea of guilty and found guilty by the court and the second part is that the appeal period after the court has to have lapsed. Member Attorney Johnson recused himself from having an opinion and making speculations on the case as his capacity on the Commission is that of a voting member and not that of providing legal advice as an attorney for the Commission. Attorney Johnson stated legal counsel should be provided by the Office of Attorney General (OAG) which is what the Commission will be seeking with a formal letter. In addition, the Commission will be requesting from the OAG to appoint an attorney for the Commission or if it is possible to use the Department's hired legal attorney as a hearing officer for the Commission.

7. **Required Police and Court Clearances for Initial, Renewal, and Transfer Applications** – The issue of sex offenders and them being registered on the sex offender registry was discussed. Sex offenders may or may not be registered or they may have committed sex crimes in other jurisdictions outside of Guam in which their crimes will not show on a local Guam Police/Court Clearance. It was recommended to the Commission that an FBI Background Criminal Check be done; however, such background checks cannot be done via the court as written by Guam law. The law must be changed to allow the court to request for an FBI Criminal Background Check in order to apply for a real estate license. Chairman Pangelinan is concerned with protecting clients, spouses and children, from such sex predators, and including criminals of family violence. This is another area of the law that needs to be revised. Currently, for employment at daycares, the law is being changed to require the court to request for an FBI Criminal Background Check which is still a work in progress. The Commission would like to incorporate and adopt that as a requirement for applying for real estate licenses. Chairman Pangelinan mentioned he will provide more information on the next meeting. Member Attorney Johnson mentioned he will provide the requirements for taking the Guam Bar as they require fingerprinting for an FBI Criminal Background Check so the Commission has documents to model off of.

8. **Open Discussion** – Chairman Pangelinan reported there have been questionable behaviors done by real estate licensees and he wanted to ensure that the Commission is doing their part to proactively protect clients and their families. Vice-Chairman Gutierrez mentioned that in Honolulu the association posts in newspapers violations/crimes committed by real estate licensees to protect the association and the public.

9. **Next Meeting Scheduled for Tuesday, December 19, 2023 at 2:00pm** – As mentioned earlier in the meeting, the Commission decided to have the next meeting on Thursday, October 19, 2023 at 2:00pm followed by another meeting on Tuesday, December 19, 2023 at 2:00pm.

10. **Meeting Adjournment** – A motion to adjourn the meeting was made by Member Delgado, seconded by Member Attorney Johnson. The Chairman adjourned the meeting at 3:00pm.

Prepared and Submitted By:

Michele Marie R. Rabago
Regulatory Examiner

Confirmed By:

Alice P. Sebastian-Cruz
Regulatory Programs Administrator