

ARTICLE XI: PUBLIC LANDS

Case Annotations: *Marianas Pub. Land Corp. v. Guerrero*, 2 N.M.I. 301--303; *Rosario v. Quan*, 3 N.M.I. 269--278, 279, 280.

Section 1: Public Lands. The lands to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under Covenant Article VIII, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are public lands belonging collectively to the people of the Commonwealth who are of Northern Marianas descent.

Source: Original provision (ratified 1977, effective 1978); amended by Senate Legislative Initiative 7-3 (1993).

Case Annotations: *Marianas Pub. Land Corp. v. Kan Pacific Saipan, Ltd.*, 1 N.M.I. 431--1 N.M.I. 433; *Govendo v. Marianas Pub. Land Corp.*, 2 N.M.I. 482--487.

Section 2: Submerged Lands. The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Source: Original provision, unaltered (ratified 1977, effective 1978).

Section 3: Surface Lands. The management and disposition of public lands except those provided for by N.M.I. Const. art. XI, § 2 shall be the responsibility of the Marianas Public Land Corporation.

Source: Original provision, unaltered (ratified 1977, effective 1978).

Case Annotations: *Pangelinan v. Itaman*, 4 N.M.I. 114--116; *Faisao, Estate of, v. Tenorio*, 4 N.M.I. 260--266.

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.

Case Annotations: *Govendo v. Marianas Pub. Land Corp.*, 2 N.M.I. 482--487.

b) One director shall be a resident of the first senatorial district, one shall be a resident of the second senatorial district, and three shall be residents of the third

senatorial district; provided that of the five directors, at least one shall be a woman and at least one shall be a person of Carolinian descent. Each director shall be a citizen or national of the United States, a resident of the Commonwealth for at least five years immediately preceding the date on which the director takes office, a person with at least two years management experience, a person who has not been convicted of a crime carrying a maximum sentence of imprisonment of more than six months, a person who is able to speak Chamorro or Carolinian and a person of Northern Marianas descent.

c) The directors shall serve a term of four years except that two of the first five directors appointed shall serve a term of two years and three shall serve a term of four years. A director may not hold a paid position in the corporation. The directors shall be held to strict standards of fiduciary care.

Case Annotations: *Govendo v. Marianas Pub. Land Corp.*, 2 N.M.I. 482--487, 491.

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

e) The directors shall make an annual written report to the people of the Commonwealth describing the management of public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in Commonwealth land.

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Source: Original provision (ratified 1977, effective 1978); amended by Second Const. Conv. Amend. 32 (1985).

Case Annotations: *Govendo v. Marianas Pub. Land Corp.*, 2 N.M.I. 482--486, 487; *Pangelinan v. Itaman*, 4 N.M.I. 114--116; *Faisao, Estate of, v. Tenorio*, 4 N.M.I. 260--266.

Section 5: Fundamental Policies. The Marianas Public Land Corporation shall follow certain fundamental policies in the performance of its responsibilities.

a) The corporation shall make available some portion of the public lands for a homestead program. A person is not eligible for more than one agricultural and one village homestead. A person may not receive a freehold interest in a homestead for three years after the grant of a homestead and may not transfer a freehold interest in a homestead for ten years after receipt except that these requirements are waived for persons who have established a continuous use of public lands for at least fifteen years as of the effective date of this Constitution. At any time after receiving the freehold interest, the grantee may mortgage the land provided that all funds received from the mortgagee be devoted to the improvement of the land. Other requirements relating to the homestead program shall be provided by law.

Case Annotations: *Rosario v. Quan*, 3 N.M.I. 269--278.

b) The corporation may not transfer a freehold interest in public lands for twenty years after the effective date of this Constitution, except for homesteads as provided under section 5(a), or for use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.

Case Annotations: *Apatang v. Marianas Pub. Land Corp.*, 1 N.M.I. 140--145, 149, 157.

c) The corporation may not transfer a leasehold interest in public lands that exceeds twenty-five years including renewal rights. An extension of not more than fifteen years may be given upon approval by three-fourths of the members of the legislature.

d) The corporation may not transfer an interest in more than five hectares of public land for use for commercial purposes without the approval of the legislature in a joint session.

Case Annotations: *Govendo v. Marianas Pub. Land Corp.*, 2 N.M.I. 482--495.

e) The corporation may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.

Case Annotations: *Govendo v. Marianas Pub. Land Corp.*, 2 N.M.I. 482--498, 499, 500.

f) The corporation shall adopt a comprehensive land use plan with respect to public lands including priority of uses and may amend the plan as appropriate.

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses reasonably necessary for the accomplishment of its functions. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

Source: Original provision (ratified 1977, effective 1978); amended by Second Const. Conv. Amend. 32 (1985).

Case Annotations: *Govendo v. Marianas Pub. Land Corp.*, 2 N.M.I. 482--495; *Pangelinan v. Itaman*, 4 N.M.I. 114--116.

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

a) The trust shall have three trustees appointed by the governor with the advice and consent of the senate. After this Constitution has been in effect for ten

years, the number of trustees appointed by the governor with the advice and consent of the senate shall be increased to five. Three shall be from Saipan, one from Rota, and one from Tinian. At least one trustee shall be a woman and at least one trustee shall be of Carolinian descent. The trustees shall serve for a term of six years except that the term of office shall be staggered, accomplished as follows: three trustees shall serve for four years and two trustees shall serve for six years as determined by drawing of lots.

b) The trustees shall make reasonable, careful and prudent investments. For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

c) If the legislature authorizes a Marianas development bank and provides that all United States economic assistance for economic development loans provided under Covenant § 702(c), shall be deposited as capital in that bank, the trust shall use up to fifty-five percent of its receipts in a year to increase the total capital available to the bank to the sum of ten million dollars. After the bank has more than ten million dollars in total capital, the bank shall pay the excess above ten million dollars to the trust until the trust has been fully repaid for its contribution to the bank.

d) The trustees shall carry out the intention of Covenant § 803(e), by using the interest on the amount received for the lease of property at Tanapag Harbor for the development and maintenance of a memorial park. The trustees shall transfer to the general revenues of the Commonwealth the remaining interest accrued on the trust proceeds except that the trustees may retain the amount necessary to meet reasonable expenses of administration.

e) The trustees shall make an annual written report to the people of the Commonwealth accounting for the revenues received and expenses incurred by the trust and describing the investments and other transactions authorized by the trustees.

f) The trustees shall be held to strict standards of fiduciary care. Each trustee shall annually submit to the governor and the presiding officers of the legislature a report disclosing their financial affairs, as provided by law.

Source: Original provision (ratified 1977, effective 1978); amended by Second Const. Conv. Amend. 33 (1985).