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CHAPTER 64
OCEAN SHORES: TERRITORY BEACH AREAS

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§ 64101. Legislative Findings.

The Legislature declares that:

(a) The traditional pattern of land ownership of land abutting the beaches and ocean shores of Guam is that a strip of dry land between the mean high watermark as can be physically established from the latest tide elevation data published by the U.S. Coast and Geodetic Survey, and privately-owned land is owned by the government for general use of the inhabitants of the island, being open and available to all users, both for recreational purposes and as a means of livelihood for thrownet fishermen;

(b) The shore side boundaries of privately- owned real properties which were surveyed before World War II did not extend to the mean high watermark, as can be testified to respecting the privately-owned land along Agana Bay in the Organized villages of Asan, Piti and Agat;

(c) Since World War II, an increasing amount of the government-owned land abounding the sea has been alienated and lost to private ownership;

(d) Although fee title to the ocean shore may have vested in private individuals, the Legislature recognizes that over the years the public has made frequent and uninterrupted use of such ocean shore and recognizes, further, that where such use has been legally sufficient to create rights or easements in the public through dedication, prescription, grant, or

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otherwise, that it is in the public interest to protect and preserve such public rights or easements as a permanent part of Guam's recreational resources;

(e) The indiscriminate building of structures on the ocean shores of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, and such construction, in addition, deprives the people of Guam of their right to untrammelled use of beach areas above the mean high watermark;

(f) Such construction destroys the natural beauty of Guam's ocean shores, one of the territory's greatest natural resources; and

(g) Finally, in spite of the enactment of certain laws and the adoption of numerous resolutions for the protection and preservation of the beach areas of Guam, the Executive Branch of the government, which has the responsibility for enforcing these laws and implementing the resolutions adopted, has failed to adequately preserve and protect that strip of said land above the mean high watermark which belongs to the people of Guam.

SOURCE: GC §13450 enacted by P.L. 12-19.

§ 64102. Legislative Policy.

The Legislature of Guam hereby declares as the public policy of the territory of Guam that it is the public right to have unrestricted access to the ocean shores of Guam for common use by all the people of Guam, and therefore that strip of public land above the high mean watermark must be preserved and protected for all generations to assure free access to the beaches of the territory to the maximum extent, to preserve the natural beauty of Guam's beaches, and to alleviate the health problems caused by construction near tidal areas. It is, therefore, the purpose of this Chapter to forever preserve and maintain the sovereignty of the territory heretofore legally existing over the ocean shore of the territory so that the public may have the free and uninterrupted use thereof; to protect, settle and confirm the public rights to the use of the ocean shore heretofore acquired by public dedication, prescription, or otherwise and to authorize the reacquisition of the ocean shore where a portion thereof has been lost to private ownership and no public rights exist therein as a result of dedication, prescription, or otherwise.

SOURCE: GC §13451 enacted by P.L. 12-19.

§ 64103. Construction and Interpretation.

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The Legislative findings and policy set forth in § 64101 and § 64102 shall govern the interpretation of any provision of this Chapter.

SOURCE: GC §13452 enacted by P.L. 12-19.

§ 64104. Definitions: Ocean Shore, Territory Recreational Area.

As used in this Chapter, unless the context requires otherwise:

(a) Ocean shore means the land between the mean low waterline and a series of lines connecting angle points located at a distance of twenty-five (25) feet inland from the two (2) feet contour line as established and described by the U.S. Coast and Geodetic Survey. The angle points shall be so selected as to secure maximum parallelism of the twenty-five (25) feet setback line with two (2) feet contour.

(b) Territorial beach area means a land or water area, or combination thereof, under the jurisdiction of the Department of Parks and Recreation, used by the public for recreational and fishing purposes.

SOURCE: GC §13453 enacted by P.L. 12-19.

§ 64105. Ownership of Guam Ocean Shore.

Ownership of the part of the ocean shore of Guam between mean high tide and extreme low tide, excepting such portions as may have been disposed of by the territory prior to January 1, 1972, is vested in the territory beach area.

SOURCE: GC §13454 enacted by P.L. 12-19.

§ 64106. Vesting of Public Rights in Guam Ocean Shore.

All public rights or easements in any part of the ocean shore of Guam legally acquired through express dedication, implied dedication, prescription, grant, or otherwise are confirmed and declared vested exclusively in the territory beach area. No land subject to rights vested pursuant to this section shall, after the effective date of this Law, be registered pursuant to the provisions of Chapter 29 of this Title, unless the registration is in the name of the government of Guam or clearly sets forth the existence of rights in the government of Guam.

SOURCE: GC §13455 enacted by P.L. 12-19.

§ 64107. Acquisition of Guam Ocean Shore.

The Governor is hereby authorized and directed to acquire ownership of or interests in any part of the ocean shore of Guam where such lands are held in private ownership; provided, however, the Governor shall not

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acquire ownership of or interests in any such ocean shore if it is unregistered and frequent and uninterrupted use of the ocean shore by the public has been legally sufficient to create rights and easements in the public which are confirmed and vested pursuant to § 64106 of this Chapter; and provided further that any interest in such ocean shore acquired by the Governor which is less than full ownership thereof shall be sufficient to permit the Department of Parks and Recreation to administer the interest acquired as a territory beach area. Such acquisition from private owners shall either be by condemnation, exchange, or negotiated purchase, except that the price for such negotiated purchases shall not exceed the most recent appraised value of such property for real property taxes under Chapter 24 of 11 GCA, Finance & Taxation, and if by exchange with government-owned property, only if the government-owned property to be exchanged has been included in the inventory of government land, or amendments thereto, provided under §13505.1 of the Government Code of Guam.

SOURCE: GC § 13456 enacted by P.L. 12-19.

NOTE: GC § 13505.1 referred to above was repealed at the time of passage of the Chamorro Land Trust Act. Please see note after § 64108.

§ 64108. Guam Ocean Shore Not to be Alienated: Judicial Confirmation of Public Rights in Ocean Shore.

No portion of the ocean shore of Guam or any interest therein vested by §§ 64105 and 64106 of this Chapter or hereafter acquired by the territory of Guam or any political subdivision thereof shall be alienated by any agencies, departments, commissions or corporations of the territory except as expressly provided by law; provided, however, the restriction on alienation shall not apply to a judicial sale of such land resulting from a condemnation action brought by the United States of America or to an exchange of said land made pursuant to §13525(c) of the Government Code. The Department of Parks and Recreation, when necessary shall undertake appropriate court proceedings to protect, settle and confirm all public rights and easements vested in the territory pursuant to § 64105 and § 64106 of this Chapter.

SOURCE: GC §13457 enacted by P.L. 12-19.

NOTE: GC §13525, referred to in the section above, Exchange of Land in Lieu of Cash Payment, was repealed by P.L. 12-226, which enacted the Chamorro Land Trust Act (Chapter 75 of this Title). Art. 1, General Provisions of Chapter 60, Land Management, also contains provisions concerning exchange of government land.

§ 64109. Title and Rights of Territory Unimpaired.

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Nothing contained in this Chapter shall be construed to relinquish, impair or limit the sovereign title or rights of the territory of Guam in its shores as the same may exist before or after the effective date of this Chapter.

SOURCE: GC §13458 enacted by P.L. 12-19.

§ 64110. Liability of Property Owners of Ocean Shore.

The owner or person in control of any property subject to a public easement declared a territory beach area by § 64106 of this Chapter or acquired as ocean shore for a territory recreational area pursuant to § 64107 of this Chapter shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within either area, unless the injury or damage results from a condition that he created and that he knew of or in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

SOURCE: GC 13459 enacted by P.L. 12-19.

§ 64111. Landowner Declaration of Continuing Control of Land Along Ocean Shore: Effect: Failure to File.

(a) In any court proceedings involving prescriptive rights of the public over unregistered property abutting, adjacent or contiguous to the ocean shore, an instrument executed and filed as provided by Subsection (b) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

(b) The declaration shall describe the property and shall be signed and acknowledged. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the Department of Parks and Recreation.

(c) Failure of the owner or person in control of property to execute and file the declaration as provided in Subsection (b) of this section shall not imply an intent to relinquish dominion and control over his property.

SOURCE: GC §13460 enacted by P.L. 12-19.

NOTE: Chapter 64 was enacted by P.L. 12-19 as Chapter V-A, GC Title XIV, and changed to Chapter V-B, GC Title XIV, named Ocean Shores & Territory Beach Area by P.L. 12-209:6.

