



OFFICE OF THE PUBLIC AUDITOR
EXECUTIVE SUMMARY
Chamorro Land Trust Commission Commercial Division
Report No. 09-03, April 2009

No substantial changes in the control and oversight of the Chamorro Land Trust Commission's (CLTC) Commercial Division have occurred since the Office of the Public Auditor (OPA) audit issued in December 2005.¹ In our recent review, we found that CLTC still does not have an effective system to manage and administer commercial leases and licenses in the interest of the beneficiaries of the Chamorro Land Trust Act. Specifically, the Commercial Division lacks management and control systems, procedures, and assigned staff to adequately attend to the tasks of issuing commercial properties.

Inadequate Management Systems and Controls

We found exceptions in all three of the commercial licenses we tested:

- A license that was issued to an ineligible company;
- A license that may have circumvented the maximum acreage requirement for the agricultural lease; and
- A license for a commercial entity that was operating a business other than what was approved by the CLTC.

The CLTC does not have (1) an adequate revenue collection system to ensure that all revenues are monitored for collection on a timely basis; (2) assigned sufficient staff to monitor the activities of the Commercial Division; and (3) established written collection policies and procedures. Collection responsibilities are not clearly defined. One staff told us that his task was only to record payments and not to assess or bill licensees. As of December 31, 2008, CLTC had an accounts receivable of \$305,472 for four licensees. Of this amount, \$261,337 or 86% were over 90 days past due, some payments dating back to 2005.

Past and current CLTC Directors have not developed a land use plan outlining properties for agricultural, residential, and commercial use. We note that as thousands of applicants wait for residential and agricultural leases, CLTC's lack of a land use plan hampers its ability to identify what lots will be required for these purposes. Without such a tracking mechanism, the Administrative Director (Director) and other staff were unable to disclose the total acreage under CLTC jurisdiction. Nor were they able to say how much land is available or how much was distributed for residential, agricultural, and commercial leases or licenses, respectively.

More Commercial Land Issued Than Agricultural/Residential Land In the Past Three Years

Since October 2005, licenses for 106 acres, or 428,967 square meters, were issued to 10 commercial applicants. The price per square meter was less than seven cents per annum for these 10 licenses. By comparison in our previous report, CLTC issued 1,474,936 square meters for less than 16 cents per square meter per annum for 28 licenses.

¹ OPA Report No. 05-09, Chamorro Land Trust Commission's Non-Appropriated Funds issued December 2005. View full report at <http://www.guamopa.org/docs/OPA0509.pdf>.

On the other hand, only 62 acres, or 250,905 square meters, were awarded to 60 agricultural and residential lease applicants compared to the 106 acres to commercial licensees. While commercial applicants were fewer in number, they accounted for the largest amount of awarded property, thus reducing the availability of land for agricultural and residential applicants.

The Chamorro Land Trust Act was intended to advance the well-being of the Chamorro people by way of equitable land distribution and CLTC was created to carry out this mission. However, more than 60 percent of the land awarded by CLTC over the past three fiscal years was for commercial purposes. Based on a recent public announcement in local print media, CLTC has 140 pending commercial license applications waiting to be processed, while over 10,000 paid residential and agricultural lease applications also wait.

Inadequate Revenue Collection System

With the enactment of Public Law 28-68, CLTC no longer became a recipient of General Fund appropriations. This change made the CLTC totally reliant on its commercial license revenues to fund its day-to-day operations. Since 2000, the Commercial Division was managed by one employee. In February 2006, the employee went on medical leave and is not expected to return to CLTC. He continues to receive his salary through donated leave sharing. The Director stated because of the leave sharing, he is unable to hire a replacement. In the meantime, administrative duties, such as data entry and records management of the Commercial Division, were assigned to other CLTC employees.

Conclusion and Recommendations

We saw that CLTC's revenues have fluctuated over the last three years. In fiscal year 2006, revenues were reported to be \$497,835; in FY 2007, \$626,040; and in FY 2008, \$509,894. The Administrative Director stated that the increase in FY 2007 revenues was due to a one-time delinquent payment made by a particular licensee. With just 39 commercial licenses, the task of monitoring collections should not be arduous. CLTC management and board have been provided with monthly accounts receivable summary reports showing delinquency payments of \$261,337, some dating back to 2005. Of these amounts, \$4,800 are more than three years old, \$42,000 are more than two years old, \$48,000 are more than one year old, and \$166,000 are greater than 90 days. Management and the board have not taken the initiative to resolve these past due delinquencies, which represent nearly 50% of an average years revenues of \$544,000.

We recommended the CLTC Director develop a land use plan and written collection policies and procedures for commercial licenses. We also recommended the CLTC Board review a quarrying feasibility and honey production license to determine whether their award is in accordance with their enabling legislation or if it circumvented the maximum acreage requirement for agricultural leases. The CLTC Director generally concurred with the audit findings and recommendations. See Appendix 7 for the CLTC management response.



Doris Flores Brooks, CPA, CGFM
Public Auditor