



Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation

I Mina'trentai Dos Na Libeslaturan Guåhan • 32nd Guam Legislature

February 27, 2013

Honorable Raymond S. Tenorio
Acting Governor
Maga'låhen Guåhan
Executive Chambers
Ricardo J. Bordallo Governor's Complex
Adelup, Guam 96910

Subject: – Vacancies, Board of Directors, Jose D. Leon Guerrero Commercial Port of Guam

Hafa Adai!

I would like to bring your attention to an urgent matter requiring immediate action with regard to the Board of Directors of the Jose D. Leon Guerrero Commercial Port.

Currently, there exists two (2) vacancies on the five (5) member board and a third board member's term will soon expire. Under 12GCA Ch. 10 §10103 three (3) directors shall constitute a quorum. As such, I request that you immediately make new appointments to the board in order to fill the vacancies left due to the board member appointment rules outlined in Ch. 10 §10103.

According to 12GCA Ch. 10 §10103, the Governor is required to nominate members to the Port of Authority of Guam Board to fulfill the unexpired terms of the previous member they are replacing. The law specifically states "§10103. Board. (a) The Authority shall be directed by the Board which shall consist of five (5) directors appointed by the Governor with the advice and consent of the Legislature. Directors shall be appointed and their names transmitted to the Legislature within thirty (30) days of the effective date of this Chapter. The five (5) directors first appointed shall classify themselves by lot so that their terms shall expire respectively as follows: One (1) on December 31, 1976, Two (2) on June 30, 1977 and Two (2) on June 30, 1978. Their successors shall be appointed each for a term of three (3) years to commence on the date of their confirmation by the Legislature. **Any director vacancy shall be filled by the Governor, with the advice and consent of the Legislature, for the unexpired term.**"

It appears that in the overwhelming task of a new Administration to appoint and fill vacancies on the numerous boards and commissions of the government of Guam, an oversight occurred during the appointment process of the board members of the Port Authority of Guam. According to the appointment letters for the Port, Governor Edward B. Calvo appointed the members to blanket three (3)-year terms instead of following the process as outlined above.

The following are the appointment dates of the board according to §10103:

<u>Name</u>	<u>End of Term</u>	<u>Date of Gov's Appt.</u>	<u>Confirmation Date</u>
Michael T. Benito	October 3, 2011	January 19, 2011	February 21, 2011
Eduardo R. Ilao	February 21, 2014	January 19, 2011	February 21, 2011
Daniel J. Tydingco	August 14, 2011	February 1, 2011	February 21, 2011
Mary Michelle Gibson	October 28, 2012	May 16, 2011	August 3, 2011
Christine Won Pat Baleto	March 15, 2015	December 6, 2011	March 15, 2012

The terms of Michael T. Benito and Daniel J. Tydingco have already expired. Further, the term of Mary Michelle Gibson will expire soon.

If the law had been followed regarding the previous board, and the newest appointees filling their unexpired terms, then the actual board terms would reflect the following:

Daniel J. Tydingco would serve the unexpired term of Monte Mesa, expiring on August 14, 2011.

Eduardo R. Ilao would fill the vacancy of Joseph Camacho, expiring February 21, 2014.

Michael T. Benito would serve the unexpired term of Marilou Lacson, expiring October 3, 2011.

Christine Baleto would fill the vacancy of Jovyna Lujan, expiring March 15, 2015.

Mary Michelle Gibson would fill the unexpired term of William Beery, expiring October 28, 2012.

Please note that 4GCA Ch.2 §2103.9 (e) provides that a Director can remain serving in an official capacity for up to an additional 90-calendar days, plus three (3) legislative days. Mary Michelle Gibson is within this time frame.

As such, I am requesting that you confer with Governor Calvo and submit new appointments to the Port Authority of Guam Board, and immediately transmit the nomination packets to the Guam Legislature.

I am aware that two (2) of these five (5) individuals have continued to act as board members despite not being legally entitled to the position. And the term of a third member will be expiring in April 2013. I am confident that you share my concern for the grave consequences

facing our community with the knowledge that the ability of the Board to meet quorum may be comprised given the aforementioned. I trust that you will take immediate and decisive action to ensure our island's only commercial seaport is able to function within the parameters of Guam statute.

Senseramente,

A handwritten signature in black ink, appearing to read 'T. C. Ada', written in a cursive style.

Thomas C. Ada
Chairperson

cc: General Manager, PAG
Board of Directors, PAG
Senators, 32nd Guam Legislature