



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: REQUEST FOR REVIEW) PAG DOCKET 14-06
AND APPROVAL OF)
NEW LEASE RATES BY) ALJ REPORT
PORT AUTHORITY OF)
GUAM)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the May 22, 2014 request for approval for new lease rates, filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks PUC review and approval of new rates for office space, at \$1.79 per square foot; warehouse space, at \$.84 per square foot; and open space, at \$.51 per square foot.

DISCUSSION

1. Public Law 30-19

According to the Legislative Findings of Public Law 30-19 (“P.L. 30-19”), “[t]he current lease rate fee structure was established in 1988, twenty (20) years ago, and is *not* reflective of the changes in economic conditions and factors that typically impact private sector market lease rents.” P.L. 30-19, p. 2 (Apr. 17, 2009) (emphasis in original). Accordingly, the Guam Legislature authorized the following lease rates: \$1.63 per square foot for office space; \$.76 per square foot for warehouse space; and \$.46 per square foot for open yard space. *Id.*

P.L. 30-19 further provides that “[a]t a minimum, once every three (3) years the Port *shall* conduct assessments of the value of Port real properties and other related facilities” and that “[s]uch assessments *shall* be conducted *no later than* the second quarter of the fiscal

year commencing on the third fiscal year after enactment of this Act.” *Id.* at 3. In addition, PAG is further required, “[p]rior to the start of the fiscal year next succeeding the property evaluation, the Board of Directors *shall* set lease rates at a ten percent (10%) increase over the previously charged rate, *or* the amount determined by the recent assessment, which ever is greater.” *Id.* at 3-4.

However, P.L. 30-19 requires PAG to “provide sixty (60) days prior notice to the public and to existing Port tenants of any lease and use rate adjustments.” *Id.* at 4. The law further provides that “[u]pon expiration of this notice period and adoption of lease and use rates by the Board of Directors of the Port, the lease and use rates set by the Board shall become effective immediately”; and “the rates set by the Board shall be the minimum amount charged by the Port for the leasing and use of Port property.” *Id.* at 4.

2. Public Notice

On April 14, 2014, PAG published a Notice to the General Public in the *Marianas Variety* indicating the new rates as ten percent (10%) increases to the existing rates.

3. Board Approval

On March 27, 2014, PAG’s Board of Directors issued Resolution No. 2014-04, which found that P.L. 30-19 authorizes PAG’s Board of Directors to set lease rates at a ten percent (10%) increase over the previously charged rate, or the amount determined by a real property assessment, whichever is greater. The Resolution further found that the assessment conducted by Captain & Associates, Inc., PAG’s consultant, resulted in rates less than PAG’s current lease rates. Accordingly, on February 17, 2014, the Board exercised and adopted a ten

percent (10%) escalation to the existing lease rates for Port property, conditioned on PUC approval.

4. **Summary Appraisal and Consulting Report Regarding Fair Market Analysis of PAG's Office, Warehouse, Open Yard, and Telecommunication Spaces**

Based on the research conducted by Captain & Associates, Inc., the consultants concluded that the market rental for a 1,000 square feet office space is \$1.41 per month; for warehouse space of 3,400 square feet is \$.70 per square feet; and for open space, \$.39 per square feet.¹ The consultants utilized an office space benchmark involving a 1,000 square foot, average condition, office space on the ground floor of the Administration Building.² The consultants used comparables in their analysis, such as the rent in the Reflection Center, the GCIC Building, and the Pago Plaza in Ordot-Chalan Pago.³ With respect to warehouse space, the benchmark used involves a 3,400 square foot, average condition, industrial space in Warehouse No. 1. For their analysis, the consultants drew comparables from the Tamuning Industrial Park, Harmon, and the Bello Warehouse located along Bello Road in Barrigada.⁴ For open space, the consultants examined recent land transactions, as well as property listings.⁵ The market rates produced by PAG's consultants, however, resulted in rates less than those currently assessed by the Port.

¹ Summary Appraisal and Consulting Report Regarding Fair Market Analysis of PAG's Office, Warehouse, Open Yard, and Telecommunication Spaces, by Captain & Associates, Inc. ("Captain Appraisal Report"), p. 5 (Nov. 2012).

² Captain Appraisal Report, p. 72.

³ Captain Appraisal Report, p. 84.

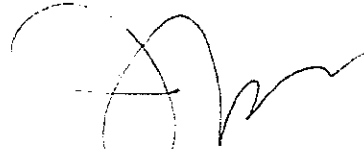
⁴ Captain Appraisal Report, p. 108.

⁵ Captain Appraisal Report, p. 114.

RECOMMENDATION AND CONCLUSION

The Guam Legislature has given PAG's Board of Directors broad authority to set lease rates for property at the Port. Indeed, PAG is mandated, at a minimum, once every three (3) years, to conduct assessments of the value of Port real properties and other related facilities. Based on these assessments, PAG's Board of Directors can either set a ten percent (10%) increase over the previously charged rate, or an amount determined by a recent market assessment, whichever is greater. Accordingly, based on the record before the Commission, and for the reasons set forth herein, the ALJ recommends that the PUC approve the following proposed lease rates: \$1.79 per square foot for office space; \$.84 per square foot for warehouse space; and \$.51 per square foot for open space.

Respectfully submitted this 29th day of July, 2014.



JOEPHET R. ALCANTARA
Administrative Law Judge

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