



ZERO DOWN

BY JAYNE FLORES

“The land of opportunity is Guam.”

Sontag Martin, a 51-year-old air conditioning mechanic, moved here from Chuuk in 1996 to help his son, who was attending the University of Guam. “He doesn’t really have a place here to stay, so I have to come out here and look for apartment and to help him out,” Martin explained.

project. However to this day, the Gill-Baza subdivision still has no sewer lines installed.

Typically, the developer of a subdivision installs the water and sewer lines, said Craddick. He noted that the CCU did address the matter of Cyfred's prior agreement with GWA. Craddick says no record of board authorization of this deal, no approval of funds and no legislative approval for the project could be found. As such, he said the board felt no obligation to continue with a deal that he believes the previous management "had no authority to enter into."

"We're not going to take ratepayers' money to help out private developers," he said.

Gill claims that since most of the land in his subdivision has been sold, the residents "would be the beneficiaries, not Cyfred."

"We just simply have an intransigent government that doesn't recognize the value of what Cyfred provides to the community. And that's wrong," said Gill. "They should sit down with us and work this out, so that poor people can get a place to live - bottom line."

Power infrastructure is installed into a residential area by several means, according to Guam Power Authority engineering manager Andy Balajadia. The developer can bear the cost up front and then incorporate that cost into the cost of the lots or homes.

When a number of residents in an area apply for power, Balajadia explained that if their estimated monthly non-fuel revenue over a period of 30 months will cover the cost of installation of the primary system, GPA normally bears that cost. If not, the residents have to absorb it.

That's what happened after GPA installed power into the Gill-Baza subdivision in 2001, when the residents complained to then-Gov. Gutierrez. Some of the residents were assessed approximately \$5,000 a piece for the cost of installation.

Two Gill-Baza residents took Cyfred and the subdivision's prior owners to court over what they allege was a breach of contract involving the GPA assessment and lack of other infrastructure.

One was Sontag Martin's friend, Kini Sananap, who is recovering from surgery.

Sananap's attorney, Wayson Wong, spoke for his client.

"If you're going to build any subdivision on Guam, then you should have the subdivision infrastructure go in before you sell the lots, or at least a date certain by which the infrastructure will be in or the sale should stop," The complaints filed by Wong on behalf of his clients point to a section of Guam law that requires a seller of real property to inform a buyer whether or not utilities are available on or near that property.

Sananap's civil complaint states that in November 1999, when he and his wife purchased their lot from Cyfred, they signed a warranty deed issued to them the following month that stated the grantee (Cyfred) "acknowledges that water and power (electricity) are immediately available on the Premises or within 100 feet from the premises."

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Gill, himself an attorney, claims "That was a mistake on the warranty deed, but our contract specifically said those pieces of infrastructure were not there."

The Sananaps filed their complaint in Superior Court on September 27, 2002. The case file is now several inches thick and the suit has yet to be resolved.

Wong says the Sananaps do not want to move. They are simply asking Cyfred to provide the infrastructure that was promised them.

The case of Gerardo and Mariefe Abalos, who sued Cyfred in April 2002, also involves breach of contract.

The Abalos' also purchased a lot from Cyfred in 1999 and their warranty deed also stated that water and power were immediately available on or within 100 feet



Sontag Martin, holding his 5-year-old granddaughter, Joyce, waited three years for power and water to be brought to his neighborhood.

of the property. Their land purchase agreement states "SELLER agrees to install an EIGHT INCH (8") sewer line and SIX INCH (6") water line on the public utility and access easement fronting the subject property purchased by BUYER." The complaint says the Abalos' signed the statement concerning the availability of water and power because they were promised by a Cyfred employee that they would have those utilities within a month of signing the document. The Abalos' were also assessed over \$5,000 by GPA when power was installed in 2001, but until mid-2002, they still did not have water. The Abalos', who have since moved back to the Philippines, are suing Cyfred to recover all the money they paid for their lot, the cost of building their house, and attorney's fees; a total of \$33,199.00

In December 2002, Superior Court Judge Michael Bordallo granted the Abalos' partial summary judgment in the case. Cyfred appealed the decision to the Supreme Court of Guam, where oral arguments were heard in January of this year. The high court has yet to issue a ruling in the case.

"We disclosed fully the state of the infrastructure," said Gill of the two cases. "We always sold with the express condition that the infrastructure wasn't there. "If they (buyers) want our properties that are cheap, (buying) without a credit history, they have to understand that we're selling these properties with the infrastructure that they see at that point," he said.

Residents say the big problem in the area now is the condition of the dirt roads.

Opposite page: Like most residents of "Zero Down," 51-year-old Sontag Martin and his family are building their home as they can afford to buy materials. He cannot afford to hook up to the power yet because of an outstanding power bill left in his name by a relative.

Chuuk, the largest - and the poorest - of the island states in the Federated States of Micronesia, is Guahan's neighbor to the southeast. An FSM Compact of Free Association with the federal government allows citizens like Martin to live and work here or anywhere else in the United States. Because Guahan is close to home in many ways, most who can afford to leave, come here.

"If they stay back home, they cannot find anything. If they stay home, maybe the most thing they can do, every day go fishing," shrugged Martin.

Despite its political status as an unincorporated U.S. territory, Guahan is still considered the Mecca of Micronesia. The largest and most populated island in the region, it boasts five-star hotels, stunning golf courses, the best roads, the most technically advanced civilian hospital, an accredited university, a tourism industry, U.S. military bases and much, much more.

Martin's first trip here was in 1982, when he joined the Navy's apprenticeship program. Upon his graduation in 1984, he went back home and worked for the government until his permanent relocation to Guahan nine years ago.

Now employed at Raytheon, Martin began bringing the rest of his family - his wife and five other children - here shortly after his arrival.

"We come here to work, we come here to seek all possible opportunities for us...this is the future of us," said Martin, whose second daughter just graduated from the University of Guam last month. His oldest daughter is also attending the university.

Families from the FSM and Guahan are alike in that the extended family is often very large (Martin's clan on Guahan numbers 18 so far). Finding a place where everyone can stay together is difficult. Apartments and government-assisted housing programs limit the number of residents per unit, which is primarily why Martin bought a quarter acre lot in "Zero Down" five years ago.

Considered part of Yigo, Guahan's northernmost village, the small residential area known infamously as Zero Down is carved out in the middle of the jungle. Following Route 9, which curves along the southwestern edge of Andersen Air Force Base, the second paved left along the route is Chalan Ramirez. Ramirez curves to the



The Guam Environmental Protection Agency will not issue permits for residents to build septic tanks on quarter-acre lots. Since there is no sewer line servicing his property, Sontag Martin bought two adjacent quarter-acre lots and built a septic tank on his now half-acre lot.

right for about four tenths of a mile and then the pavement ends.

Welcome to Zero Down.

Two developers, Cyfred Ltd and Mohan Bhojwani, each purchased neighboring tracts of this pristine land that sits over the island's

Sometimes they don't go to school because they cannot cross what we call "river." When it rains heavily, the deep potholes fill with so much water that the road becomes impassable - like a flowing river.

northern aquifer. They subdivided it into nearly 200 quarter-acre lots and sell the lots for "zero money down" to island residents. The lots run about \$40,000 each and are usually financed over a period of 20 to 30 years. Most buyers are from the FSM, although a few Chamorro and Filipino families have also elected to buy property in this area.

"I decided to get that because with all the information that they gave us, it sounds

like I can manage to stay there rather than renting an apartment or a house," said Martin. "The privilege that they gave us for the property that we lease is we can stay as many as (we need)," he said. So he deposited \$950 and pays \$400 a month, which he will pay for the next 30 years. He'll end up paying approximately \$144,000 for land that would've cost him \$39,000 if he had been able to afford a conventional bank loan.

"I don't have that much. If I have, I would," Martin laughed.

When he first bought the property, Martin says they had no power or water. "Power, I use lantern. I bought propane lamp. For water, I have to draw water from a friend's house," Martin said.

The tiny FSM islands on which Martin and most of the other residents here grew up had no running water, no electricity and no sewer. So moving into Zero Down wasn't really that much different from living back home. The difference was the promise that modern infrastructure would soon be available to them. A better life was within reach.

Martin and his family built their semi-concrete home with its tin roof brick by brick, buying materials as they could afford them. For three years they hauled water to their property from a friend's home in Dededo, the village just south of Yigo. This, despite the fact that when Martin purchased his lot in Cyfred's Gill-Baza subdivision, he says a



Although water lines are available to residents in the Gill-Baza and Bhojwani subdivisions in Yigo, some residents have not yet hooked up the island's water system.

company official promised that within 18 months, power and water would be available.

He had tried to buy property in a location with existing infrastructure, "But I have to pay \$900 a month." He couldn't afford it.

"After three years, we gather together, all of us that we've been staying on that property... close to, more than 50 families already," he said. "We all signed this letter, kind of a petition, during (former Gov. Carl) Gutierrez' administration. So we went down to the governor's office and present the documents to him. That's when he started to really pushing on the water and infrastructure to come in," said Martin.

Within a week of their meeting, "...the guys started to put in the power poles and we were so happy that Gutierrez accomplished what he promised us. Then we got power. And then, the water came in later."

Martin has to clear a power bill left in his name by his nephew before he can hook up the power to his house. His family cooks in an outdoor kitchen. Their water line runs to a small concrete structure behind the house that serves as the bathroom. He plans to install a water line inside the house as soon as he can afford it. Still, Martin believes he is better off than many of his neighbors. "As far as I know, I'm a little bit okay, but the other people are not."

Most everyone in Zero Down now has access to water, although developer Mohan Bhojwani says some of the residents in his

subdivision still have not applied to GWA for a water meter "Because they have to pay."

Some residents rely on their neighbors' generosity for power, as evidenced by the extension cords that run from one structure to another – sometimes even across the dirt roads. In Bhojwani's subdivision, Wainer William and Janny Primo are still waiting for power. Primo, sitting on a covered wooden platform outside a relative's house down the road from her own home, says they were promised power by May 2001. "We're using lamp, we're using gas for cooking," she said. Eight months pregnant with her fourth child, her son takes a nap next to her in the afternoon heat. Without power, it is cooler outside the house.

Frank Taitano, who works for Bhojwani, says it has taken two years, but the Guam Power Authority is now bringing in power lines because there are more than enough residents to offset the cost of installation of the primary system. Bhojwani says he informed residents to have power meter pedestals built, but when only two residents complied, "I used my money to build the pedestals and will be reimbursed the cost" by the residents.

Primo and William, who works as an air conditioning technician, are from the FSM state of Pohnpei. They were able to build a semi-concrete home, but many of the homes here, including their cousin's wood and tin structure, are obviously not built to code. They won't withstand the next typhoon, but right now it is all some of these residents can afford.

Ruben and Piliانا Loney came to Guahan 17 years ago, also from Pohnpei. He worked as a heavy equipment operator for a private contractor for years before taking medical retirement. In fact, Ruben proudly notes that he paved Guahan's main thoroughfare, Marine Corps Drive, and many of the island's other roadways. Piliانا works for the Department of Public Health's Adult Protective Services.

The couple, who have seven children, bought property from Cyfred several years ago and were told the infrastructure would be available in about six months. They made payments on their property, getting ready to build on it. The condition of the roads was so poor that more than once, Ruben borrowed a grader from work and graded some of them himself.

When they were ready to build their home, Ruben says officials at the government's One-Stop Center told him he could not build a septic tank on his property. "He told me that I cannot have a septic tank in quarter acre lot. I have to have sewer," Ruben said.

"In the first place, they didn't tell us that on quarter acre lot, it's against the law to have septic tank, right? We didn't know anything about those. That's unsanitary!" added Piliانا.

"When the property is above the northern aquifer, where we are pumping our source of drinking water, the minimum lot size is a half acre for residential units (that use septic tanks)," said Domingo Cabusao, engineer supervisor at the Guam Environmental Protection Agency. He says the agency will fine homeowners who illegally install a septic tank on their property.

"They have to wait until the developer puts in a sewer system," Cabusao said.

"I've been renting the Todo Mauleg for almost four years (at \$130 a month)," explained Martin. In 2004, he was able to buy the lot next door and was issued a permit to build a septic tank on his now half-acre lot.

GEPA does allow residents on quarter-acre lots to bury a watertight sewage holding tank on their property, "as long as there is an agreement between the owner and the pumpers," said Cabusao. But he called it a "temporary" situation – a worst-case scenario.

That worst-case scenario has been everyday life for residents in Zero Down. Some have rented port-a-potties, some use a

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pumping service and some simply build outhouses, with their raw sewage filtering down into the aquifer on a daily basis.

Cabusao says GEPA is aware of "plenty of violations, not only in that area."

When the Loneys complained to Cyfred about not being allowed to put a septic tank on their property, they said they were told to switch lots with a half-acre lot up in Mount Santa Rosa, an area of Yigo on the other side of Marine Corps Drive.

"One thing I don't agree with them, they said that I will wait the water and the power also up there. I said, 'That's the reason I'm gonna move out from here, no water, no power, and I'll go up there – same situation? So we're arguing. After a month, they sold it to another people,'" Ruben said.

The Loneys finally gave up and moved to a place in Yigo with available infrastructure, after having poured nearly \$15,000 into the lot they bought from Cyfred.

Yigo Mayor Robert Lizama has fielded complaints from residents and non-residents about the lack of infrastructure in Zero Down for several years. He says schoolteachers have talked to him about children from the area not being able to shower before they

come to school in the morning. "It really goes back to the government allowing the application for these developers to subdivide these lots without the proper infrastructure," said the mayor. "... These people are desperate to find a place to live."

Peter and Louann Castro bought their lot in Bhojwani's subdivision because they were turned down for a conventional bank loan. They were told the sewer line would be installed no later than 2003. "It's already July 2005 and I still haven't seen a sewer," said Peter Castro. He uses a holding tank, which gets pumped out once a month.

Bhojwani has sewer pipes piled up inside a fenced lot near Castro's property. He says by September 30th, construction should be completed. The project would've been done two years ago, but in July and December 2002, Guahan was slammed with typhoons, which Bhojwani says set the construction back. Then, he stored sewer pipes and supplies on an unsecured lot in the subdivision and some of the inventory was stolen. Bhojwani says he obtained a performance bond for \$575,000 to put in the sewer line, but that delays have added to the cost. "I'm paying for everything," he said.

Both the Bhojwani and Gill-Baza subdivisions had to obtain sewer installation performance bonds as a condition of their subdivision maps being recorded, according to Carl Untalan, subdivision planner-in-charge at the Department of Land Management.

Untalan explained that the law requires a residential development to be approved by the Land Use Commission, which designates a specific time frame by which the infrastructure must be installed. However in agriculturally zoned subdivisions like Zero Down, there is no infrastructure timeline imposed. "It's just not in the law," he said.

Untalan had recommended changes to the law that would set time limits for infrastructure installation in an agriculturally-zoned subdivision, thereby avoiding the substandard living conditions that arise when residents do not have access to water, power or sewer. He says he forwarded the recommendations to the legislature in May 2002, but that no action was taken to legislatively address the situation.

The loophole has allowed Cyfred and Bhojwani to sell these lots to residents without infrastructure, despite their quarter acre size and position over the aquifer.

Francis Gill, president of Cyfred Ltd, believes that if the government were to require all developers to put in infrastructure, the cost of property on Guahan would be prohibitive to most of these people.

Gill says his company had an agreement with the Guam Waterworks Agency under the administration of former Gov. Carl Gutierrez that Cyfred would buy the materials and GWA would assist with installation of the sewer lines. But when Gutierrez left office in 2003 and the newly elected Consolidated Commission on Utilities hired David Craddick as the general manager of Guam Waterworks, "We just have not been able to work with Craddick for whatever reason," Gill said in a telephone conversation from the Seychelles, where he is reportedly visiting family.

Public Works acting chief engineer for the division of Capital Improvements Projects Liberty Perez said she could not find a paper trail for the performance bond obtained for the Gill-Baza subdivision. She believes Public Works may have released the bond during the previous administration, which normally signals the completion of a



Abandoned vehicles litter the sides of the dirt road leading into "Zero Down."



Rosenta Ifraim clears a lot she and her husband bought in the area known as Zero Down after hearing about it from relatives.

Garbage trucks cannot get into Zero Down. Martin says he hauls out his trash and pays the \$4.00 per load dumping fee. Much of the garbage, though, including broken appliances, old mattresses and other household items, ends up littering the roadside boonie areas in the subdivision.

Police and fire department vehicles cannot respond to emergency calls in the area. Dozens of automobile carcasses, having been devoured by huge potholes, litter the boonies alongside nearly every thoroughfare in the subdivision. In one spot, someone dumped old carpeting into one of the pond-sized potholes in an attempt to make the road passable.

Public school buses cannot drive in, so the children have to walk the nearly one and a half miles each way to the lone bus stop on Chalan Ramirez every day.

"My main concern there is my kids, when they go to school," Martin said. "We have different schedules...I have to start work at 7:30, my wife sometimes starts at 10 in the morning, my other kids work at 12, but the kids going to school, they have to reach the bus stop by five o'clock in the morning," he said. "Sometimes they don't go to school because they cannot cross what we call 'river.'"

When it rains heavily, the deep potholes fill with so much water that the road becomes impassable – like a river.

Loretta, Martin's 26-year-old daughter, graduated from Guam Community College with an associate's degree in accounting last year. A shy, pretty young woman, she is now taking classes at UOG to earn her four-year degree so she can help her family. But on really rainy days, the condition of the roads makes it impossible to get to class.

Around the corner from the Martin's lot, Rosenta Ifraim expressed the same concern about the roads being difficult to maneuver as she cut brush with a machete, clearing the lot she and her husband had just purchased from Cyfred. "Yeah, I'm really worried, because it's so far," she said of her children having to walk to the bus stop every day.

Sen. Jesse Anderson Lujan, who according to court documents was at one time a vice president of Cyfred Ltd, wrote to acting DPW director Joe Morcilla in 2004 asking that Public Works improve the roadways in the Gill-Baza subdivision. Lujan pointed out that children in the area have been known to swim in the potholes. He wrote that the condition of the roads "negatively affects the health and welfare, not only of the residents of the area, but of the entire community, as residents of that area interact with the rest of the community." Lujan did not return phone calls or an email inquiring about his association with Cyfred.

Lujan's letter prompted Morcilla to inquire of Land Management as to Public Works' responsibility. Subdivision planner Untalan responded that the government is not responsible for maintenance of the roadways until the developer formally dedicates the roadways over to the government. "However, prior to any acceptance of such offerings, the developer/subdivider must improve the offered parcel(s) in accordance with DPW standards," wrote Untalan.

As of July 2005, Untalan said no such formal dedication has taken place.

Mayor Lizama says he has worked with developer Bhojwani to have space in his subdivision dedicated for bus shelters and a playground, and that Bhojwani was very cooperative in identifying areas for those items.

"Cyfred's position is different," said Lizama. "They are still under the position that the government is responsible and the government should take over."



Power pedestals built by developer Mohan Bhojwani stand ready for hook-up to the island's power system. Now, he says, it's up to the residents to apply for power.

Ruben and Piliانا Loney feel Micronesians are being taken advantage of because "We don't know how to complain," said Piliانا.

"We don't know where to go," added Ruben.

Also, the Loneys are well aware of the main obstacle to getting any improvements made in places like Zero Down.

"No votes," Piliانا said.

FSM citizens are able to live and work on Guahan, their "land of opportunity," and many of the residents in Zero Down have jobs. But they cannot vote here. Martin says they have little voice with regard to getting the government to help improve the infrastructure or change the laws that allow these substandard living conditions.

"But our kids, those that were born here, they're approaching the age of eligibility as voters," he said. "That's what we're aiming at, because our friends, Chamorro friends, been telling us, that that's the only reason they cannot develop here, because of eligible votes and things like that." In the coming years, though, he noted that, "Hundreds and hundreds of Micronesians will be heading to the polls."

Maybe then, somebody in this Mecca of Micronesia will listen. ☺