

"The Role of an Efficient Judiciary in Improving the Economy"

**Remarks
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Hafa Adai and Good Afternoon. Mr. Chairman, members of the board, President Eloise Baza, Chamber members, distinguished guests. I want to thank you for having me as your guest speaker at this month's general membership meeting.

Allow me to begin by quoting from your mission statement:
The Guam Chamber of Commerce exists to advance the general welfare of its members by promoting the economic, social and environmental well-being of the Territory of Guam.

This mission statement sets forth the lofty goals to be reached, the ideal that members aspire toward for the benefit of the Chamber and the island. To reach these goals and ideals requires, demands, concrete, tangible action. One example of such action is the Chamber's creation of the Armed Forces Committee.

This committee's objectives are: to foster goodwill in support of the increasing military presence on Guam; to encourage a positive relationship between our local and military communities; to bring about public awareness of the impacts - economic, social, and cultural - that the military will have on Guam; and to promote Guam as a leisure destination for military personnel. And we're seeing the progress.

To date, the Armed Forces Committee and Congresswoman Madeleine Bordallo have announced the positioning of significant Department of Defense assets to our island presently and in the coming

years. This includes the planned deployment of over 7,000 Marines (not including dependents) beginning in 2008 through 2011, not to mention the homeporting of additional submariner groups and accompanying support resources (which may equate up to approximately 1750 personnel, not including dependents), and the possible stationing of 10 F-22 Raptors.

The Chamber's mission is not a foreign concept. It's a concept shared by both public and private leaders and individuals on our island; because we all know and believe that Guam has a great potential for growth. On that same note, over the past few years, leaders and other organizations in our community have vigorously collaborated on channeling resources to stimulate our local economy. And it appears to be paying off: the most current numbers reported out from the Guam Visitors Bureau for calendar year 2005 illustrate a tourism industry on the upswing with nearly 1.2 million visitors gracing our shores and spending money, with a projected growth of 5% for this calendar year. The Guam Hotel and Restaurant Association reports that for the year 2005 hotel occupancy taxes have swelled by 25%.

It appears that the economy has turned around. With that in mind, it is my pleasure to be here today to share with you my thoughts on how good governance is essential to promoting and sustaining the economic and socio-cultural welfare of Guam and its people, and how a well-functioning judiciary is necessary to good governance.

In order to unleash the potential for economic growth, and make it truly work for Guam - and when I say "work for Guam" I mean providing a benefit for businesses, the government, schools, the working force, families, individuals - in order to unleash that potential for growth, we must begin with the basic, core concept of good governance.

So what is good governance and how do we get there?

Governance describes the process of decision-making and the process by which decisions are carried out. Through governance, public

institutions conduct public affairs, manage public resources, and guarantee the realization of human rights. Good governance accomplishes this in a manner essentially free from abuse, free from corruption, and with due regard for the rule of law.

It is about predictability, transparency, reliability, and accountability.

In more concrete terms: we need a government that follows the rules and adheres to its mandates. We need a legislative branch to create clear laws. We need an executive branch to predictably and consistently enforce such laws. Most importantly, we need a well-functioning judiciary, a court system - a system of the administration of justice - that holds the law above all else. Good rulings and opinions handed down by our courts teach all others - including government entities and private individuals alike - how to act, how to run their affairs, and what to expect. The judiciary is not only a crucial component of good governance, it is a necessary one.

To give you an example which I think can be appreciated by the business community, in 2005, civil judgments and cases increased by 49% from the previous year. The total monetary value of judgments rendered by the courts for the last several years exceeded \$40 million. In 2004, the average civil judgment per case was \$18,600.

Even small claims cases in which many of you or your companies may have been involved, nearly \$7 million for the years 2002 through 2005 were ordered by the judiciary to be paid to claimants. The average per small claim case came out to about \$1,600.

On the criminal side, the court has ordered nearly \$4 million in restitution and another \$4 million in community service for victims of crime for the years 2002 through 2005. If you calculate the number of manhours for the community service, you will see that we have ordered almost 777,000 hours of community service or work to affected parties.

What, you may ask, does good governance and an effective judiciary

have to do with our island's economy?

Studies have confirmed that investors prefer to stay and expand their investments in a place where governance is good. As business people, everyone in this room knows that before entering a potential market, investors want to know what the rules are. They want to be able to comfortably rely on these rules of law. They want to predict their costs and manage their risks accordingly. Above all, they want to know that the rules will be enforced, whether they be obligations imposed by contract or by the Legislature.

An effective judiciary - one that is predictable - stimulates economic growth by minimizing risks and transaction costs. As we all know, higher risks and higher transactions costs impede economic growth. An effective judiciary also contributes to economic growth by protecting intellectual property and thus supporting the development of technology. An effective judiciary reduces instability, and improves the quality of economic policy, by ensuring that legislative and constitutional mandates are followed when challenges are made. An effective judiciary enforces property rights, checks abuses of government power, and otherwise upholds the rule of law.

An effective judiciary, therefore, is essential to growing the economy. The benefits of a strong economy are realized, not only by the business community, but by every person in our community. It is for the benefit of the people of Guam that economic development, as well as social progress, are sought and sustained. Good governance and a good judiciary therefore, are equally as essential to the people of Guam as they are to businesses and investors.

Individuals and families will given a chance improve their own lives. A growth in the economy will mean open opportunities for business, gainful employment, and fair competition with others members in our community.

In fact, on an international level, many entities - public and private alike

- have stepped up to help developing nations reform their judiciaries. The World Bank, the Interamerican Development Bank, the Asian Development Bank, have extended \$800 million in resources in furtherance of judicial reform. The United Nations Development Program, the European Union and its member states, the American, Australian, Canadian, Japanese governments have all provided significant grant aid to developing nations to improve the operation of the judicial branch. These global efforts to establish an effective judicial branch underscores the reality that an effective, well-performing judiciary is important for economic development.

With that in mind, what does it take to have a good, effective judiciary? It is said by business leaders that three things make for a good, effective judiciary: Independence. Efficiency. And strength.

We have met our goal of independence through the recent amendment of the Organic Act of Guam. Independence from the rest of the government is essential, of course, because courts are often called to hold the executive and legislative branches of government accountable for their actions.

The second feature of an effective judiciary is efficiency. The failure to issue decisions with promptness is frequently cited as a problem in judicial systems throughout the world. In a couple of months, thanks in large part to the wholesale change in the work ethic in the courthouse, we will have adopted and implemented time standards so that cases and disputes are settled and resolved in a timely manner. Through this process, cases will be categorized, and will be given a specific time period for completion. Judges, parties, and litigants will be expected to complete the cases within the time period specified. Accompanying these new time standards is a new case assignment system. We have already instituted this new system, which involves the random assignment of cases to individual judges, thereby allowing judges to address these cases sooner. We are also finalizing our court rules to implement arbitration and mediation as alternative dispute resolutions to the court system. Certain cases are more quickly resolved by

arbitration or mediation. The goal of efficiency is one that we are actively pursuing at the judiciary.

The final characteristic of an effective judiciary is strength. This is because a court system's effectiveness is dependent on its capability to carry out its mandates. In practice this translates to the availability of human and financial resources. Despite our realized efforts at achieving independence, and despite our further efforts to streamline and achieve efficiency, the resources we are given, quite frankly, are not enough to cope with the large number of cases which come before our court system every year.

Indispensable as the court system is to building and maintaining good governance, we face, time and time again, challenges in recognizing the priorities of the judiciary. We have and will continue to be accountable to what is financially entrusted to us. However, it is inevitable that a lack of sufficient resources will ultimately undermine much of our efforts at providing effective, efficient justice. This is because the judiciary's capacity to deliver justice is directly proportional to the resources it has and spends on maintenance, operating expenses, and capital outlay. While the judiciary makes up one-third of our governmental structure, our actual share of the total budget is just 4.88%. This is an insufficient level of commitment to the judiciary.

It is no surprise that the delivery of justice competes with the well-recognized priorities pursued by our leaders. Education. Public safety. Health care.

I, and probably every one else in this room, believe that education, public safety, and health care are critical to our livelihood. Yet, those priorities do not exist, and cannot exist, in a vacuum. They cannot be prioritized, in the true sense of the term, without good governance. To underfund the judiciary - and at the same time claim that education, public safety, and health will be safeguarded - is to ignore the dynamic between an effective judiciary and good governance. The decision to move the judiciary up on the list of priorities must ultimately come from

the Legislature.

Achieving an effective, well-functioning judiciary is a challenge, especially where resources are limited. However, good governance, in the small community in which we live and work, is within our reach, as long as the leaders of our island, of our government, of our business communities, recognize and commit to strengthening the court system. The benefits - in terms of economic development and growth, and the overall good to all of Guam's people - will be well worth all of our efforts.

I return to the first line of your mission statement: The Guam Chamber of Commerce exists to advance the general welfare of its members by promoting the economic, social and environmental well-being of the Territory of Guam. The Judiciary shares your vision to promote the economic, social and environmental well-being of our island. It is for this reason that we seek your partnership in giving this island the long-overdue good governance it deserves.

Thank you.