

GICC faces nearly \$33K in fines for workplace hazards

By Geraldine Castillo
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Variety News Staff

THE Guam International Country Club (GICC) was cited recently by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) for 17 alleged workplace safety violations, creating proposed fines totaling \$32,900.

According to a press release from U.S. DOL's Office of Public Affairs, the violations were found during an inspection at the club's maintenance shop in Dededo.

Among the serious safety violations are failing to: provide training for employees working with hazardous materials; provide appropriate personal protective equipment for eyes and face; provide required forklift training and ensure the forklift had a functioning seatbelt; in addition to multiple electrical



The Guam International Country Club in Dededo was cited yesterday by the Occupational Safety and Health Administration for a number of safety violations in their maintenance shop. David Castro / For Variety

hazards, including the workers' ability that death or serious exposure to live electrical parts. physical harm could result.

"A serious violation occurs from a hazard about which the employer knew or should have known," the press release stated. "Employees must be protected against safety

hazards in the workplace, not just because it is the right thing to do, but because it is the law," stated Ken Nishiyama Atha, OSHA's regional administrator in San Francisco. "Workplace safety is critical. OSHA will remain focused on being proactive, especially when workers' safety and health are at stake."

The press release also stated the employer has 15 business days from receipt of its citations and proposed penalties to comply, meet with OSHA's area director, or contest the findings with the independent Occupational Safety and Health Review Commission.

To obtain compliance assistance, file a complaint or report workplace hospitalizations, fatalities or situations posing imminent danger to workers, call OSHA's toll-free hotline at 800-321-OSHA (6742) or the agency's Honolulu Area Office in Hawaii at 808-541-2680.

Plebiscite...

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has lived on Guam since 1977 and voted in many of the island's general elections, applied to register for the plebiscite but was not allowed to sign up because he didn't meet the definition of "native inhabitant of Guam."

Davis informed the U.S. Department of Justice in 2009 that "Guam's discriminatory voting laws facially violate the Voting Rights of 1965 (among other statutes)."

Although a news release from the Center for Individual Rights stated the Department of Justice declined to investigate and did not explain its refusal to enforce federal law in Guam, thus forcing Davis to file the lawsuit in order to protect his right to vote.

"There's nothing subtle or indirect or even at all ambiguous about the plebiscite law. It seeks to empower fewer than 40 percent of our population to make a profoundly important political decision on a public matter that's properly and Constitutionally a right of all the people," Davis said.

Simple issue

He added the matter is a

pretty simple issue. "We're talking about the right to vote for every individual with regard to race [and] sexual preference, unless it's because of certain situations. Every U.S. citizen is entitled to vote under U.S. law," Davis said, citing the Organic Act and the U.S. Voting Rights Act. "All of these are ... very clear. That's not the way things are here," he said.

The lawsuit generally requests the court to ask the Guam Election Commission to cease and desist from denying voter registration to non-native inhabitants, which Davis said comprises more than 100,000 people on Guam.

"This is a class action lawsuit. All of those people are automatically parties to this lawsuit," Davis said, adding he's very confident about the case.

"I'm very confident; the law is clear," Davis stressed.

Meanwhile, the Variety caught up with Park yesterday morning after he filed the complaint in District Court. Park said the Guam law on the plebiscite is discriminatory against some Guam voters based on race and color.

"We believe the many

voters on Guam and many residents who call Guam home are excluded from the plebiscite concerning future relations with the U.S.; and only the native inhabitants of Guam can vote," he said.

Off-island firms

The off-island law firms handling the case said they simply want to ensure the laws of the U.S. are followed.

"We believe the Guam government and the officials who are part of the Guam government are obligated to follow the laws of the United States, which clearly prohibit treating residents differently solely on their race," said Terry Pell, president for the Center for Individual Rights.

"We're not trying to stop the plebiscite, but it should be open to all registered voters regardless of race. It's important that everyone should have an opportunity to vote," he added. "We are hoping the court will open it up regardless of race."

When asked why the governor, the lieutenant governor or the Legislature were not named in the lawsuit, Pell explained they are just asking for the courts to prohibit the enforcement of the law, they are not asking to change the law.

"We're asking the court to

declare the law unconstitutional and enjoin the officials from enforcing it," he said.

And while he understands that the Chamorro people consider themselves native inhabitants, he stressed this is not the basis of the lawsuit.

"The issue in the lawsuit is if the Guam government is allowed to restrict an election by race; and the answer to that question is clearly no," he said.

Pro bono

Pell also emphasized they are handling the case pro bono, because issues like this is the mission of the firm.

"We raise money from individual contributors. We organize lawsuits that we think have raised important Constitutional principles. Our clients don't pay anything. We represent them free of charge," he said.

Park is the only attorney who is being paid.

Pell further said they've been working on the case for at least six to 12 months, and that cases such as this could last from one to 10 years.

He added that Adams is their lead counsel and will be coming to Guam to assist Attorney Park when the case is scheduled for a hearing in District Court.

Issue...

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complaint is a class action suit, Pangelinan said this still has to be conferred upon by the court.

"The court has to agree to it and there are certain parameters that need to be followed," Pangelinan pointed out.

The complaint names the Guam Election Commission, members of the GEC board and AG Rapadas as the defendants. Not named are Gov. Eddie Baza Calvo, Lt. Gov. Ray Tenorio and the Guam Legislature, the latter of which Pangelinan said he's not sure why.

"I hope the AG defends this in cooperation with the U.S. Attorney to protect Guam's right to self-determination," he said.

Pangelinan also said Arnold "Dave" Davis, who filed the complaint, was not speaking for the majority of people on Guam.

"I just want to say Mr. Davis is one person. I know of many Koreans, Japanese and Chinese, and they tell me they support self-determination just as they support what is going on in their countries. I don't think Mr. Davis is speaking for the entire class if there is such one," Pangelinan said.

Meanwhile, Maria Pangelinan, Guam Election Commission executive director, expressed surprise with the lawsuit.

"We were not notified and I found out it was filed in District Court from the media," she said.

The matter is now being handled by the Guam Election Commission's new legal counsel Jeff Cook, of Cunliffe & Cook, who said he couldn't comment pending further review of the complaint and consultation with his client.

Rapadas also did not have any comment regarding the case.

We just can't wait on political status

By Joaquin P. Perez

Congresswoman Madeleine Bordallo is on target with her call for the governor, the Legislature and the Commission on Decolonization to accelerate and intensify the education process on political status options. However, the excuse that federal funding must be secured first further delays any plans for a vote.

Not unlike the war claims issue, which the federal government appears to be delaying in anticipation that all World War II survivors will soon die, it appears that federal officials want to delay the decolonization process until Guam's electorate is so diluted that the argument that a plebiscite is not necessary because we, the community, is satisfied with the status quo gains validity.

Gov. Eddie Calvo and the Legislature should not wait for adequate federal funding. It can be assumed that the federal government doesn't want to provide for a plebiscite, which could result in frustrated indigenous people voting for independence or free association.

A program and budget can be developed by the University of Guam for a plebiscite target date of November 2016 or 2017. The

educational process is so important it should be turned over to UOG, with UOG's greater capacity and capability of conducting meaningful educational programs devoid of political interference or preferences. The Commission on Decolonization should digest the transcripts of these educational sessions, conduct necessary public hearings, and field and ask appropriate questions to ensure that all options are covered thoroughly without political innuendos.

Bordallo's address on the issue of political status would be more sincere and forceful if she commits efforts and resources to convincing Congress to adopt a binding resolution mandating that the federal government accept and honor, in a timely manner, the results of that political status plebiscite. Unless Congress mandates such a binding resolution, any plebiscite would be exercises in futility and meaningless.

We have seen, on the issue of war claims, that notwithstanding the statutory establishment of the War Claims Commission and the appointment of commission members by the federal executive and the government of Guam, the federal government is not bound to accept the commission's recommendations and could simply wait until all the survivors die, as there are not many more left. Hence the necessity of a lawsuit. With the rate at which our manamok' are passing away, we can no longer depend on sterile and flaccid

political gobbledeygook.

Elected officials do not hesitate using the status issue as campaign planks. Simple lip service when officials eventually point to others, saying, "You first."

The governor says he wants to proceed with the educational process but is waiting for federal monies to fund the Commission on Decolonization, thus passing the buck to Bordallo. The chances of adequate federal funding coming is equivalent to a snowball's chance in hell.

The congresswoman is waiting for the governor and the Legislature to do something, yet she exerts no efforts to convince her colleagues that the results of a plebiscite must be respected and honored through a binding resolution. In this sense, the elected leaders of the colonized essentially become the colonizers.

Referring to the war claims issue, the late congressman, and retired general, Ben Blaz, stated: "We have met the enemy and they are us." I think this describes present-day political status efforts.

The late Gov. Ricky Bordallo urged Washington to tell us whether we are fish or fowl. I propose that we, as a people, should tell Washington what we are and that we cannot be content as a colonized people, and that the existing relationship sucks.

Joaquin P. Perez is a resident of Santa Rita.

Transparency hard to find at Legislature

By Robert Klitzkie

The lead sentence in the penultimate paragraph of Sunday's editorial read: "Senators also need to recognize their horrible transparency record. ... such as the measure that ... allowed them to fatten their wallets with unnecessary and questionable retroactive pay. A previous pay raise was implemented without telling the public it had been done."

The editorial closed by admonishing the Legislature to "stop shutting the people out of the process of government." The editorial is right on point, but transparency is where you find it, as will be shown below.

The Legislature, as the popular branch of the government, is closest to the people and should jealously guard the peoples' right to know what their government is doing. Rather than lead by example, the Legislature has established, as the editorial opined, a "horrible transparency track record." Senators routinely disregard the Sunshine Act requirement regarding legislative session dates and agendas.

Two of the three complaints lodged with

Rather than lead by example, the Legislature has established, as the editorial opined, a "horrible transparency track record." Senators routinely disregard the Sunshine Act requirement regarding legislative session dates and agendas.

Sen. Rory Respicio's much ballyhooed FOIA Council dealt with that violation. Of course, the FOIA Council didn't issue opinions on those violations but appeared to "run out the clock" so that those complaints expired with the 32nd Guam Legislature, sub silencio.

Section 12 of the Organic Act requires the Legislature to keep a journal. A legislative journal is like the minutes of a legislative session, showing motions, votes, etc. Go to the Legislature's website and take a look at the legislative journal for July 7, 2014, to see what the journal looks like. Take a good look, though, because that is the last legislative journal posted.

The legislative journal for last Nov. 21, although of great potential interest, is not posted. That's the session that lasted for about an hour in which senators "broke every

law but gravity" to give themselves a raise of \$48,320 per term, with a retroactive kicker of as much as \$15,398.67.

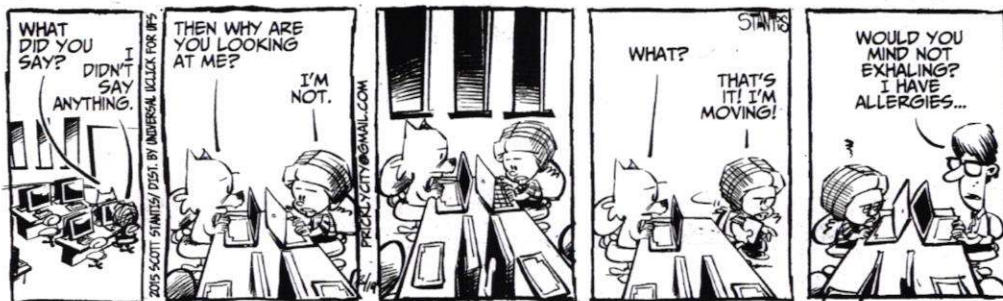
The editorial touched on, "A pay raise ... implemented without telling the public it had been done." This is the raise of \$5,534 per annum (again with a hefty retroactive kicker) that Respicio "discovered" in November of 2011 based on an incorrect interpretation of law. Until an eagle-eyed Pacific Daily News reporter wrote it up in February 2012, Respicio's miraculous discovery went unheralded.

Rather than being the champion of governmental transparency, the Legislature is often the chronic offender. The Legislature does lead by example — unfortunately, usually in the wrong direction. Unfortunate because if senators don't first establish their transparency bona fides by strictly complying with the laws on the books, they won't have the moral authority to hold others accountable, nor to enact the needed more stringent transparency laws.

At the Legislature, transparency is usually very hard to find. However, when it comes to raising their own salaries, some senators have been very, very transparent. In fact, we can see right through them!

Robert Klitzkie is a former senator and a resident of Yigo.

Prickly City



SUNDAY FORUM

The Pacific Daily News invites readers to join us in discussing some of the hot topics in the news.

■ **Sunday: Should Guam and the other U.S. territories be able to vote for president?**

If you have some insight on this topic or want to join the discussion, we want to hear from you.

Make contact

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■ Opinions expressed by letter writers and columnists are their own and do not necessarily reflect those of the Pacific Daily News.

■ For more information, call Duane M. George at 479-0415.

Thought of the Day

"The foolishness of man perverteth his way; and his heart fretteth against the Lord."

Proverbs 19:3

Don't be angry at God if your own stupidity has ruined your life. Turn to Him for help.

Harvest Baptist Bible College

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