

LAND COURT RULES OF PROCEDURE

Promulgated by the Palau Supreme Court  
April 4, 1996

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## LAND COURT RULES OF PROCEDURE

### Rule 1. Authority and Scope

These rules are promulgated pursuant to the Land Claims Reorganization Act of 1996, RPPL No. 4-43 Section 9(a). They shall govern hearings before the Land Court of the Republic of Palau.

### Rule 2. Purpose and Construction

These rules shall be construed to ensure fairness in the conduct of hearings and presentation of claims with or without assistance of legal counsel.

### Rule 3. Hearings to be conducted in Palauan

All hearings shall be conducted in the Palauan language unless the Land Court orders otherwise. An interpreter will be provided at the request of any claimant, whose request shall be made to the Land Court Judge hearing the claim not less than five (5) days prior to the hearing date. The Land Court will determine whether the interpreter is adequately qualified.

### Rule 4. Disqualification of Judges

A Land Court Judge shall not hear any claims in which he has a substantial interest or is so related to or connected with any claimant as to render it improper for him to hear and make a determination on the claims. A Land Court Judge shall also adhere to the standards of the Code of Judicial Conduct of the American Bar Association except as otherwise provided by law or rule.

A request for the disqualification of a judge must be made in a timely fashion and as soon as practical after discovery of any information that forms the basis for request for disqualification.

### Rule 5. Judicial Notice of Adjudicative Facts

The Land Court may take judicial notice, at a party's request or on its own initiative, of facts not reasonably subject to dispute and which are either (1) generally known within the territorial jurisdiction of the Land Court, or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

Judicial notice may be taken at any stage of the proceedings, but a party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. The request to be heard shall be promptly made at the time any party or the Land Court suggests the need for the taking of judicial notice; provided that if the Land Court takes judicial notice in its findings of facts and conclusions of law without previously suggesting to the parties its intent to do so, the request may be made within ten (10) business days after service of the findings of fact and conclusions of law on the party making the request.

Following the taking of judicial notice, the time in which a determination of ownership shall issue shall not be deemed to commence until the period for making a request has expired and any hearing on the request has been held.

The record or the Land Court's findings of fact and conclusions of law shall reflect the reasons for the Land Court's decision to take judicial notice of any facts that form the basis of a determination of ownership.

Rule 6. Relevant Evidence Generally Admissible

All relevant evidence which would be helpful to the Land Court in reaching a fair and just determination of claims is admissible; provided that relevant evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 7. Exhibits

All exhibits shall be marked for identification purposes and shall indicate which claimant is introducing the exhibit. Exhibits shall be kept with the record of the hearing by the Land Court.

Rule 8. Witnesses

Every person who has knowledge or information relevant to the claims is competent to be a witness. Witnesses may testify as to either facts or opinions. Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation administered in a manner calculated to evoke his conscience and impress his mind with his duty to do so.

Rule 9. Establishing Custom

Any claimant who relies on custom in support of his claim should make every effort to call expert witnesses to establish the nature of the custom. The Land Court may, upon timely request of a party or upon the court's own motion, take judicial notice, pursuant to Rule 5 of these rules, of any Palauan custom.

Rule 10. Mode and Order of Interrogation and Presentation

a. Control by court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make interrogation and presentation effective for ascertaining the truth; (2) avoid needless consumption of time; and (3) protect witnesses from harassment or undue embarrassment.

b. Leading questions. Leading questions may not be used on direct examination of a witness except as may be necessary to develop his testimony. Ordinarily, leading questions should be permitted on cross-examination, but leading questions may not be used to inquire into additional matters outside the scope of direct examination unless the witness is a hostile witness, an adverse party, or a witness identified with an adverse party. When a party calls a hostile witness, an adverse party or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 11. Calling and Interrogation of Witnesses by the Court

The court may call witnesses on its own motion or at the suggestion of a party. All parties are entitled to cross-examine witnesses thus called. The court may interrogate any witness, whether called by a party or the court, but leading questions shall not be used except as may be necessary to develop the witness's testimony.

Rule 12. Production of Documents and Records

All claimants shall attach to their written claims copies of any document or record (including tapes, transcripts, affidavits, charts, or maps) in their possession or control, which document or record will be relied on as basis for the claims. Such documents or records shall be made available for inspection by any other claimant in preparation for hearing.

Rule 13. Depositions Before Hearings

Any person who desires to perpetuate his own testimony or that of another person regarding any matter that may be heard in the Land Court may request the Land Court to authorize an informal deposition of the persons identified for the purpose of perpetuating their testimony. The request shall establish (1) that the petitioner expects to be a claimant in a proceeding before the Land Court; (2) the names and addresses of the persons to be examined; (3) the facts he intends to establish by the proposed testimony; (4) his reasons for desiring to perpetuate the testimony; and (5) the names and addresses of any other known or suspected claimants of the property.

If the Land Court is satisfied that the perpetuation of testimony may prevent a failure or delay of justice, it shall make an order designating those persons to be deposed, and the time, place and scope of the examination; and shall cause said order to be given to all potentially adverse claimants not less than ten (10) days prior to the scheduled deposition. The deposition shall be transcribed by a stenographic reporter or recorded with suitable sound recording equipment, and shall allow an opportunity for cross-examination by any potentially adverse claimant.

The Land Court will determine the conditions in which the deposition testimony will be used.

Rule 14. Postponement of Hearings

For good cause shown, the Land Court may postpone a hearing for a reasonable period of time, and shall serve written notice of the postponement to all persons who timely filed a claim not less than sixty (60) days before the original hearing date. Such postponement will not extend the deadline for the filing of written claims.

Rule 15. Issuance of Determination of Ownership

The Land Court shall issue a determination of ownership, based on findings of facts and conclusions of law, within twenty (20) business days after conclusion of a hearing. The findings of fact and conclusions of law shall contain statements of any Palauan custom relied upon by the court in arriving at its determination. Such determination and a summary of the proceedings, including the findings of fact and conclusions of law, shall be promptly served on all parties of record.

Rule 16. Appeals

Any claimant aggrieved by a Land Court determination of ownership may appeal such determination directly to the Appellate Division of the Supreme Court within thirty (30) days of service of the determination. Appeals are governed by the ROP Rules of Appellate Procedure.

Rule 17. Applicability of Rules

These rules apply to all hearing proceedings before the Land Court of the Republic of Palau.

Rule 18. Amendments

These Rules may be revised or amended as the Land Court, in consultation with the Chief Justice of the Supreme Court, deems necessary.

Rule 19. Title

These rules may be known and cited as the Land Court Rules of Procedure (LCR Proc. \_\_\_\_).

Rule 20. Effective Date

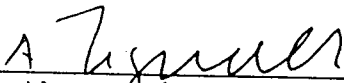
These Rules are effective as of April 5, 1996.


IN THE  
SUPREME COURT OF THE REPUBLIC OF PALAU

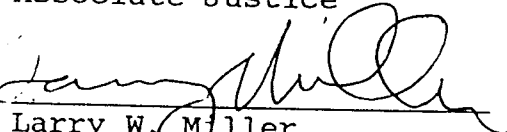
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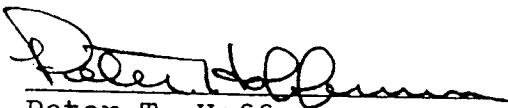
These Land Court Rules of Procedure are promulgated by the Supreme Court of the Republic of Palau pursuant to § 9 of RPPL No. 4-43. They apply to all proceedings before the Land Court. In accordance with § 9 of the RPPL No. 4-43, which requires that the Land Court promulgate rules of procedure in consultation with the Chief Justice of the Supreme Court, these rules are provisional until such time as Land Court Judges may be appointed.

Entered this 4<sup>th</sup> day of April 1996.

  
Arthur Ngiraklsong  
Chief Justice

  
Jeffrey L. Beattie  
Associate Justice

  
Larry W. Miller  
Associate Justice

  
Peter T. Hoffman  
Associate Justice