

1 **FOR PUBLICATION**

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6 **IN THE SUPERIOR COURT**
7 **OF THE**
8 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

8 JULIA KOTOMAR NORITA,)
by and through her Attorney-In-Fact,)
9 CLAUDIO KOTOMAR NORITA,)
)
10 Plaintiff,)
)
11 v.)
)
12 COMMONWEALTH OF THE)
NORTHERN MARIANA ISLANDS, and)
13 John Does 1 to 10,)
)
14 Defendant.)
)

CIVIL ACTION NO. 98-1310D

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION
OF THE 9/27/02 RULING EXCLUDING
EVIDENCE PURSUANT TO 7 CMC §
3308**

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17 **I. INTRODUCTION**

18 **THIS MATTER** came on for hearing on October 15, 2002, in Courtroom 205A at 10:00 a.m.
19 on Plaintiff's Motion for Reconsideration of the Court's ruling of September 27, 2002, excluding evidence
20 prohibited by 7 CMC § 3308. Brien Sers Nicholas, Esq. appeared for Plaintiff ("Plaintiff"). Assistant
21 Attorney General Andrew Clayton appeared for the Commonwealth of the Northern Mariana Islands
22 ("Commonwealth").

23 Prior to the commencement of trial on September 27, 2002, and after considering the arguments
24 of counsels, the Court granted the Commonwealth's oral motion in limine excluding any evidence of any
25 offer or counteroffer for the sale, purchase, or exchange of land, money settlements, land exchanges or land
26 purchase by the government pursuant to 7 CMC § 3308.

27 **II. QUESTION PRESENTED**

28 Whether to grant Plaintiff's Motion for Reconsideration of the September 27, 2002 Order granting
Defendant's motion in limine pursuant to 7 CMC § 3308, on the basis that the action is one in inverse

1 condemnation and not one initiated by the Commonwealth through its eminent domain powers.

2 **III. ANALYSIS**

3 Generally, a motion for reconsideration is granted if the movant establishes that there is an
4 intervening change of controlling law, discovery of new evidence, or the need to correct a clear error or
5 prevent manifest injustice. *Camacho v. J.C. Tenorio Enter., Inc.*, 2 N.M.I. 407, 414 (1992).

6 In this case, Plaintiff moves the Court for a reconsideration of its September 27, 2002 decision on
7 the basis that 7 CMC § 3308 does not apply in this case because section 3308 applies only to eminent
8 domain cases and not to inverse condemnation cases. *See* Pl.’s Mot. to Reconsider Exclusion of Pl.’s
9 Evidence Pursuant to 7 CMC § 3308 at 2-4. Section 3308 provides that:

10 [n]o offer or counteroffer for the sale, purchase or exchange of land shall be
11 admissible as evidence in *any eminent domain action* in either the
12 Commonwealth Trial Court or the Federal District Court for the Northern
Mariana Islands. Nor shall evidence of money settlements, land exchanges,
or land purchases by the government be admissible in such actions.

13 7 CMC § 3308 (emphasis added). Plaintiff argues that 7 CMC § 3308 plainly reads that the exclusion of
14 evidence applies only to “any eminent domain action” and since the action at bar is an action in inverse
15 condemnation and was not an eminent domain action initiated by the Commonwealth, the statute is
16 inapplicable. Plaintiff, however, fails to cite any legal authority or legislative history (nor has the court found
17 any) to support his argument.

18 This Court is not persuaded by Plaintiff’s arguments. As this Court stated in its June 18, 2002
19 Order Denying Plaintiff’s Motion for Summary Judgment, Plaintiff’s right to just compensation under the
20 Doctrine of Inverse Condemnation arises from the taking of Plaintiff’s property for public purpose by the
21 Commonwealth through the exercise of its eminent domain powers. *See Norita v. Commonwealth*, Civ.
22 No. 98-1310 (N.M.I. Super. Ct. June 18, 2002) (Order Denying Commonwealth’s Cross-Motion for
23 Summary Judgment at 6-8). *See also First English Evangelical Lutheran Church of Glendale v.*
24 *County of Los Angeles*, 482 U.S. 304, 315-16; 107 S. Ct. 2378, 2385-86, 96 L. Ed. 2d 250, 263-64
25 (1987). The fact that condemnation proceedings were not instituted by the Commonwealth and that the
26 right was asserted in a suit by Plaintiff does not change the essential nature of the claim. *See Id.* Clearly,
27 this action, although couched as an action in inverse condemnation, involves the exercise of the
28 Commonwealth’s power of eminent domain. As such, the Court’s ruling of September 27, 2002, filed on

1 September 30, 2002, excluding evidence pursuant to 7 CMC § 3308 remains unchanged.

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IV. CONCLUSION

For the foregoing reasons, Plaintiff's Motion for Reconsideration is **DENIED**.

SO ORDERED this 25th day of October 2002.

/s/ Virginia S. Sablan Onerheim
VIRGINIA S. SABLAN ONERHEIM, Associate Judge