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DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GOVERNMENT OF GUAM,

Defendant.

CIVIL CASE NO. 02-00022

ORDER
re Status Report on Mediation and
Request for Order

On August 29, 2013, the Chief Legal Counsel for the Office of the Governor of Guam (hereinafter the “Chief Legal Counsel”),¹ filed a Status Report and therein advised the court that the Government of Guam and certain former landowners² participated in a mediation conducted by former Chief Judge Vaughn Walker on August 19, 2013. *See* ECF No. 1169. In particular, “[t]he Attorney General and Receiver were invited to participate but at the time declined.” *Id.* at 2. The filing further states that “[t]he parties and the Mediator unanimously believe[d] that the participation

¹ The court remains concerned about the propriety of the filings made by the Chief Legal Counsel and may address this issue at a later time. *See* Order re Motion for Reconsideration (Aug. 13, 2013) at 25 n.32, ECF No. 1157.

² The Status Report identified the participating former landowners as Joaquin C. Arriola, Douglas F. Cushnie, Valencia Investments Corp., Calvo’s Insurance Underwriters, Inc., and Oxford Properties & Finance Ltd. *See* ECF No. 1169 at 2. Present at the mediation on behalf of the Government of Guam were Lt. Governor Ray Tenorio, Sandra C. Miller (Office of the Governor), Rawlen Mantanona (Cabot & Mantanona), and representatives of the Department of Administration. *Id.* Bernadette Artero (Government Chief Financial Advisor) joined in by telephone. *Id.*

1 of the Receiver is essential to the mediation process in order to achieve full resolution.” *Id.* at 3.
2 Therefore, the Chief Legal Counsel asked this court to order the Receiver to participate in the
3 mediation process.

4 The court is unclear what action the Chief Legal Counsel seeks to mediate. Because the
5 Status Report makes reference to the eminent domain proceedings filed in the Superior Court of
6 Guam in *Government of Guam v. 1,348,474 Square Meters, More or Less*, Superior Court of Guam
7 Civil Case No. CV0084-08 (the “Layon Condemnation Case”), the court presumes that the Chief
8 Legal Counsel sought Judge Walker’s assistance to mediate the Layon Condemnation Case,
9 specifically with regard to the payment owed to the former landowners pursuant to the \$25 million
10 judgment entered therein.³

11 The Status Report is silent as to any participation by the United States in the mediation
12 before Judge Walker. The court is unclear as to why the Chief Legal Counsel has not sought to
13 include the United States in the mediation process, especially here where the United States is a party
14 to this action and any involvement by the Receiver in the mediation process may affect the entire
15 Government of Guam’s compliance with the terms of the Consent Decree entered herein.

16 Accordingly, before the court can act on the Lieutenant Governor’s and his Chief Legal
17 Counsel’s request, the court orders the following:

- 18 • The Chief Legal Counsel shall file a supplemental filing which (1) clarifies which action
19 – the Layon Condemnation Case or this Consent Decree case – it seeks to mediate;
20 (2) describes what specific issue(s) in said action will be mediated; (3) clarifies what role
21 the Receiver will play in the mediation; and (4) describes what attempts, if any, the Chief
22 Legal Counsel, the Lieutenant Governor and/or Mr. Rawlen Mantanona or members of
23 his limited substituted firm, made to include the United States in the mediation process.
24 Said filing is due no later than September 13, 2013.
- 25 • The Attorney General shall file a response to the Status Report and Supplemental filing

27 ³ The court notes that it is fully aware of Judge Walker’s extensive mediation skills. The
28 court also favors mediation in appropriate cases, provided all the necessary parties are involved.

1 by September 17, 2013.

- 2 • The United States shall file a response to the Status Report and Supplemental filing by
3 September 20, 2013.
- 4 • The Chief Legal Counsel shall file a reply to the responses filed by the Attorney General
5 and the United States by September 23, 2013.

6 **IT IS SO ORDERED.**



8 /s/ Frances M. Tydingco-Gatewood
9 Chief Judge
10 Dated: Sep 10, 2013

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