



By Order of the Court, Judge Joseph N. Camacho

1 FOR PUBLICATION

2
3 IN THE SUPERIOR COURT
4 FOR THE
5 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

6 ISLAND MARINE SPORTS, INC.,
7 AQUATIC MARINE CO., INC. d.b.a.
8 AMIGO AQUATIC SPORTS,
9 AUTOMARINE, INC., SEAHORSE, INC.,
10 and BSEA, INC.,

11 Petitioners/Plaintiffs,

12 v.

13 DEPARTMENT OF PUBLIC LANDS, and
14 TASI TOURS & TRANSPORTATION
15 INC.,

16 Respondent/Defendant.

CIVIL CASE NO. 12-0151

ERRATA TO OPINION & ORDER
GRANTING PRELIMINARY
INJUNCTION

17 I. INTRODUCTION

18 **THIS MATTER** concerns a preliminary injunction issued July 19, 2012. *Commonwealth v. Dept.*
19 *of Public Land*, Civ. No. 12-0151 (NMI Super. Ct. July 19, 2012) (Opinion & Order Granting Preliminary
20 Injunction) (“Preliminary Injunction”). Defendant Department of Public Lands (“DPL”) now moves the
21 Court to correct a judicial error in the Preliminary Injunction. To clear up any potential confusion to
22 government agencies relying on the order, and to correct a clear error the Court hereby amends the
23 Preliminary Injunction as follows.
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1 **II. RULE VERSUS REGULATION**

2 On July 19, 2012¹ the Court found that the Petitioners, five small boat operators seeking to enjoin
3 DPL from enforcement of rulemaking demonstrated entitlement to injunctive relief. The Court found that
4 Petitioners met their burden for injunctive relief in part based on their showing of a likelihood of success
5 on the merits of their Administrative Procedures Act (“APA”) claim. In the order, the Court erroneously
6 suggested that all rules are regulations. Preliminary Injunction at 16, n.4. In fact there are two separate
7 procedures for adoption of regulations and adoption of those rules which are not regulations under the
8 APA.

9 A rule is “each agency statement of general applicability that implements, interprets, or prescribes
10 law or policy, or describes the organization, procedure, or practice requirements of any agency.” 1 CMC §
11 9101(m). Whereas a regulation is “a rule which prescribes or has the force of law.” *Id.* § 9101(k). Thus, as
12 DPL correctly notes all regulations are rules but not all rules are regulations. Rather, the APA refers to
13 “rules other than regulations,” clearly indicating that there are rules which do not prescribe or have the
14 force of law. *See id.* §§ 9102(a)(2), 9105(b).

15 The adoption of rules which are not regulations require (1) approval by the attorney General after
16 review pursuant to 1 CMC § 2153(e), *Id.* § 9102(c); (2) publication in accordance with Section 9102(a), *Id.*
17 § 9102(d); and (3) filing with the Registrar of Corporations and the Governor. *Id.* Whereas regulations—
18 rules which have the force of law—must additionally comply with Section 9104 requiring notice and
19 comment. *See* 1 CMC §§ 9104(a)(1)-(2).

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¹ The factual and procedural history is not reproduced herein. A lengthy factual and procedural history is available in the Preliminary Injunction. *See* Preliminary Injunction at 1-11.

