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## MEMORANDUM

TO: Pete Tenorio

November 19, 1976

FROM: Irving Swerdlow *Swerdlow*

SUBJECT: Comments on Draft of Constitution

### Article III

#### Section 9

Do the tax recommendations have to be in "operating detail" or can the governor indicate the type and amount to be raised without providing the exact source and language? A tax bill is a complicated bill to write and very difficult to pass. Will this requirement hold up the adoption of the budget so much that timing will always be a problem?

Does the statement "not reprogram appropriated funds" have such accepted meaning that it will not cause difficulty? Even within a department?

#### Section 13

Does "control" over the public school system include budget? Is this to be defined by the legislature?

### Article V

#### Section 3

I am not sure how loan guarantees are treated. Is that a public debt? If an "authority" issues bonds, must they be approved by 2/3 of the legislature?

#### Section 4

I don't understand this section. Does it prohibit deficit financing for operations? How does the 10% of assessed valuation operate, when "no" public indebtedness is authorized? Do "guaranteed loans" fall under this limit? The NMI does not now have a property tax and therefore has no legal assessment of value. Does this make an assessment system mandatory? This section is quite confusing to me.

### Article XI

#### Section 1

Can the right to an interest in public land be denied to legal NMI citizens who are not of "Northern Marianas descent"? I doubt it. I have a similar reaction to the last part of Section 4 subpart a. This merely invites objection from the U.S. Congress and has no operating significance as far as I can see. It is merely a "people-waiving" slogan.

#### Section 5

#### Subsection C

I think this provision of 25 years may reduce or eliminate some development opportunities. That is a short time to

Mr. Pete Tenorio  
Page 2  
November 19, 1976

depreciate a big concrete building. Also, does this make the covenant leases to the U.S. unconstitutional?

- 5d) The necessity of Senate action on any lease over 5 hectares could easily eliminate such leases.
- 5f) Does this mean that the legislature cannot have a master plan that includes public land? If a master land use plan is adopted by the legislature, who integrates the two plans?
- 5g) Who decides what "reasonable expenses of administration are"? Does the governor have any review of the budget?

Article XII This whole article is so complex that it invites court testing on constitutionality. In fact, the whole question of land ownership will continue to be litigious for so long and in so many cases that there can be no doubt that economic development and particularly income improvement efforts, will be seriously affected by the inability or impaired ability to use land as an asset to obtain credit.

Article XIII  
Section 3 This is an open invitation to confusion on land ownership rights. It will further complicate the expansion of credit facilities in the NMI and has the potential of a real raid on public land. I am not clear what the last part of the section does.