

# CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

ASB TOWER, SUITE 2100  
1001 BISHOP STREET  
HONOLULU, HAWAII 96813  
TELEPHONE 808.523.2500 FAX 808.523.0842  
WWW.CARLSMITH.COM

LAND USE COMMISSION  
STATE OF HAWAII

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DIRECT DIAL NO.  
808.523.2589

DSIMON@CARLSMITH.COM

OUR REFERENCE NO.:  
017016-00004

October 19, 2018

## VIA HAND DELIVERY

Dr. Jonathan Likeke Scheuer, Chair  
State of Hawai'i Land Use Commission  
235 S. Beretania Street, Suite 406  
Honolulu, Hawai'i 96813

Re: Docket No. A07-773: Extension of Deadline to Return to Commission and File Timetable

Dear Chair Scheuer:

This firm represents Emmanuel Lutheran Church of Maui, a Hawai'i nonprofit corporation ("ELC"), the petitioner in Docket No. A07-773.

At its May 9, 2018 meeting, the State of Hawai'i Land Use Commission (the "**Commission**") heard ELC's Motion for Extension of Time to Complete Project (the "**Extension Motion**"). At the hearing, the Commission deferred action on the Extension Motion, and instructed the parties (ELC and intervenor Waikapu Development Venture, LLC ("**WDV**")) to return within six (6) months and provide a detailed timetable of the approvals and actions needed to bring the property into compliance with the Commission's Decision and Order of June 10, 2008, and to provide that timetable 60 days prior to the Commission's next hearing on the matter. The Commission further authorized its Chair to grant an extension for up to an additional six (6) months upon request by the parties.

On September 4, 2018, we were informed by the Commission's Clerk that the Commission wished to hear the ELC and WDV motions on November 15, 2018. ELC filed its detailed timetable as an exhibit to its Motion for Modification on October 12, 2018. On the same day, WDV filed its Motion: to Approve Sale of a Portion of the Petition Area; to Allow for Subdivision of Petition Area; and to Bifurcate. ELC acknowledges that its development timetable was not filed 60 days prior to the previously scheduled November 15, 2018 hearing. We regret this delay. We understand that the Chair authorized a waiver to the 60-day filing requirement by letter dated October 16, 2018, addressed to Peter Horovitz, Esq., attorney for WDV. However, because Mr. Horovitz's request to the Chair was made only on behalf of WDV, and not also ELC, we respectfully request a similar waiver on behalf of ELC.

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As matters have developed further, it appears that the Commission will likely hear the currently filed motions, and WDV's forthcoming motion for modification to allow for its Hawai'i Revised Statutes Chapter 201H affordable housing development, on November 29, 2018, which is 48-days after ELC's detailed timetable was filed, rather than the 60-days ordered by the Commission. By letter dated October 19, 2018, the State of Hawai'i Office of Planning ("OP") requested that the Commission hold a hearing on ELC's and WDV's motions on November 29th or thereabouts, and that OP be given to November 21, 2018 to file responses to those motions. OP correctly reported that ELC has no objections to OP's requested extension to its filing deadline.

Please accept this as ELC's formal request for a short extension of time to return to the Commission, and a waiver of the 60-day filing requirement for the detailed timetable. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Derek B. Simon', with a long horizontal flourish extending to the right.

Derek B. Simon

cc: Bryan C. Yee, Esq.  
Michael Hopper, Esq.  
David Galazin, Esq.  
Tara Furukawa  
Peter Horovitz, Esq.