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LAND USE COMMISSION
STATE OF HAWAII

2019 AUG -9 P 3:23

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OUR REFERENCE NO.:
030088-319

August 9, 2019

VIA HAND DELIVERY AND EMAIL DANIEL.E.ORDENKER@HAWAII.GOV

Mr. Daniel E. Orodener
Executive Officer
Land Use Commission, State of Hawai'i
State Office Tower
Leiopapa A Kamehameha
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

Re: Executive Officer's August 6, 2019 Letter re Request for Extension of Time to Respond to Petitioner's Motion for Modification and Time Extension, Filed July 24, 2019 Docket No. A87-610/Tom Gentry and Gentry-Pacific, Ltd.

Dear Executive Officer Orodener:

Petitioner Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools ("**Petitioner**" or "**KS**") respectfully requests clarification to the letter you sent dated August 6, 2019, which we received today, regarding your approval of the Office of Planning's ("**OP**") Request for Extension of Time to Respond to Petitioner's Motion for Modification and Time Extension, filed July 24, 2019 ("**OP's Request for Extension**"). Your letter stated that, "Pursuant to agreement between the Parties, Petitioner will file all documents associated with its Motion for Modification and Time Extension by October 7, 2019." However, on two points this statement is not consistent with the agreement between OP and Petitioner.

I. Motion Filings

Petitioner's Motion was filed on July 24, 2019 ("**Motion**"). By email dated August 5, 2019, Petitioner agreed to OP's request for an extension of time to file OP's response to Petitioner's Motion. OP requested an extension from the seven-day response time required under the Land Use Commission's ("**Commission**") administrative rules to October 21, 2019, to file its response to Petitioner's Motion. However, there was no agreement that Petitioner would be precluded from filing anything in response to OP's filing. In other words, there is no agreement that Petitioner will file "all documents associated with its Motion by October 7, 2019" as stated in your letter. As with any Petitioner, KS may wish to file supplemental materials prior to the anticipated November 20, 2019 hearing on the Motion, whether in response to OP's filing or

otherwise. Petitioner never agreed that any and all of its filings related to the Motion would be submitted by October 7, 2019.

In your letter you stated that Petitioner "will file all documents associated with its [Motion] by October 7, 2019." Petitioner's filings related to its Motion, e.g., additional exhibits and evidence, written testimony, etc., cannot be filed by October 7, 2019, as that date is two weeks before OP's and the Department of Planning and Permitting's ("DPP") responses to Petitioner's Motion are due. Petitioner never relinquished the right to make supplemental filings whether in response to the submissions made by the other parties or for any other reason. Petitioner will make every effort to file any supplemental materials related to its pending Motion no later than November 13, 2019, which is one week prior to the anticipated November 20, 2019 hearing date for the Motion. We respectfully request that you please confirm this timeframe is acceptable.

II. Submission of Revised Master Plan and Development Schedule

Separate from Petitioner's pending Motion, under Condition 1 of the Commission's November 26, 2014 Decision and Order, KS is required to submit to the Commission "a revised master plan and schedule for development for the approximately 1,395-acre KS Property within five (5) years from the date of the Commission's issuance of an order approving the Motion to Amend." Notwithstanding this condition, by letter dated July 24, 2019, you requested that KS submit its revised master plan and schedule for development to the Commission, OP, and DPP by October 21, 2019, i.e. a little more than one month prior to the Commission's deadline under Condition 1.

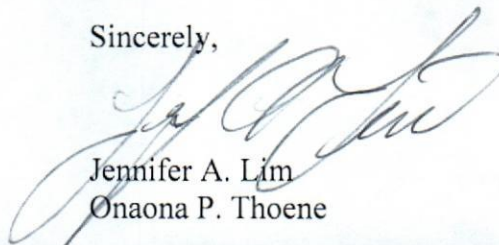
Even with your request that KS submit the master plan a month early, OP requested that KS submit its revised master plan and schedule for development even earlier, i.e., by October 7, 2019. In the spirit of cooperation, KS agreed to circulate its revised master plan and schedule for development by October 7, 2019. At the same time, KS stressed that the submittal of the revised master plan and development schedule is not a "supplement" to the pending Motion, but is a submittal required under Condition 1, separate and apart from the pending Motion. OP agreed that it would provide its comments, if any, on the revised master plan and development schedule no later than October 21, 2019. These timeframes were agreed to by OP and KS so that KS would have time to review and consider comments before presenting its revised master plan and development schedule to the Commission on November 20, 2019.

This is to clarify that KS will submit its revised master plan and development schedule by October 7, 2019, but said submission is not a document "associated with" its pending Motion (as stated in your letter). KS is not seeking any formal approval of the revised master plan and the revised master plan is not part of the pending Motion. KS is making this submission in compliance with Condition 1, and to solicit feedback from the Commission, OP, and DPP, and KS genuinely looks forward to the opportunity to present its revised master plan and schedule for review and discussion.

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Thank you for your consideration of these issues and we respectfully request that you confirm Petitioner's filing deadlines related to the pending Motion, with the understanding that Petitioner's filing deadline cannot be prior to the October 21, 2019 filing deadline you set for OP and DPP to provide their statements of position regarding Petitioner's Motion.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer A. Lim', is written over the typed name.

Jennifer A. Lim
Onaona P. Thoene

cc: Dawn Apuna, Esq., Deputy Attorney General (*via U.S. Mail*)
Duane Pang, Esq., Deputy Corporation Counsel (*via U.S. Mail*)

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