

1 financial matters. You had these other matters which
2 included litigation and fraud.

3 Were there any other reasons why this
4 Motion to Amend, which was filed in 2006, was not
5 moved forward?

6 MS. GARSON: Also because of the recession
7 there were a number of developers that had gone
8 bankrupt that also affected the University.

9 COMMISSIONER OKUDA: So you named financial
10 matters, these other matters like fraud, litigation,
11 recession.

12 Were there any other matters which
13 prevented the Motion to Amend filed in 2006 from
14 going forward?

15 MS. GARSON: No.

16 COMMISSIONER OKUDA: Is it your contention,
17 or your client's contention that somehow the Land Use
18 Commission or the staff of the Land Use Commission
19 was responsible for any of these matters which
20 prevented the Motion to Amend from going forward?

21 MS. GARSON: No, it was not staff's fault
22 that these things weren't going forward.

23 And, Commissioner Okuda, once again, my
24 position is regardless of fault. It's a
25 procedural -- I'm raising a procedural issue.

1 COMMISSIONER OKUDA: And my final
2 question -- Chair, if you will indulge me -- deals
3 with the authority for the Land Use Commission to
4 issue an order to show cause.

5 You do agree that HAR 15-15-93,
6 subparagraph (b) states that, and I quote:

7 "Whenever the Commission shall have reason
8 to believe that there has been a failure to perform
9 according to the conditions imposed, or the
10 representations or commitments made by the
11 Petitioner, the Commission shall issue and serve upon
12 the party or parties or persons bound by the
13 conditions, representation or commitment, an Order to
14 Show Cause why the property should not revert to its
15 former land use classification, or be changed to a
16 more appropriate classification."

17 You do agree that's what the administrative
18 rule states; correct?

19 MS. GARSON: I couldn't find it fast
20 enough, but I'll agree that that is what you read.

21 COMMISSIONER OKUDA: And just so that --
22 and I might be misunderstanding your filing, it's not
23 like the Hawai'i Supreme Court has ever held that the
24 Commission had exceeded its authority, and the
25 governor made it his authority by signing off on this

1 administrative rule, isn't it true that in the DW
2 Aina Le'a Development, LLC, versus Bridge Aina Le'a,
3 LLC case, which is 134 Hawai'i 187, and actually it
4 was at page 196 at Footnote 2, the Hawai'i Supreme
5 Court actually quoted HAR 15-15-93(b), the provision
6 that I read.

7 And in fact, the Supreme Court underlined
8 and highlighted that provision in the Aina Le'a
9 decision, which kind of leads me to believe the
10 Supreme Court was telling us, the Land Use
11 Commission, hey, you know, this is your rule, and you
12 better follow your rule.

13 I mean, is that a reasonable interpretation
14 of how to read that point of the Bridge Aina Le'a
15 case?

16 MS. GARSON: May I just say that HRS
17 205-4(g) specifically states the Commission may
18 provide a condition.

19 HRS 205-4(g) states in part that the
20 Commission may provide, by condition, the absence of
21 substantial commencement of the use of land in
22 accordance with such representations the Commission
23 shall issue and serve upon the parties --

24 COURT REPORTER: You really need to slow
25 down.

1 MS. GARSON: He read fast too (indicating).

2 COURT REPORTER: Yes, but I can understand
3 him.

4 MS. GARSON: Let me try again.

5 The Commission may provide, by condition,
6 that absent special substantial commencement of use
7 of the land in accordance with representations, the
8 Commission shall issue and serve upon the party bound
9 by the condition an Order to Show Cause why the
10 property should not revert to its former land use
11 classification, or be changed to a more appropriate
12 classification.

13 So this is what the statute provides. I
14 have read the Bridge Aina Le'a many times. I do not
15 know if this issue had come up in that case.

16 COMMISSIONER OKUDA: My question actually
17 was limited to whether or not the Hawai'i Supreme
18 Court had quoted and highlighted the provision of the
19 administrative rule which sets forth when the
20 Commission shall issue an order to show cause.

21 But let me just ask this one final
22 question.

23 Chair, I promise this is the final
24 question.

25 Would you agree that it's in fact your

1 client's filing here that leads, or allows the
2 Commission to have reason to believe that there's
3 been a failure to comply with the conditions?

4 Because, for example, your client filed
5 this Motion to Substitute Petitioner and withdraw
6 Land Use Commission approvals and revert land use
7 district boundary classification to agricultural --
8 and I know that's a mistaken word, should be
9 "agriculture", but that document was filed
10 February 4, 2019.

11 I mean, whether you folks want to back off
12 on that document or not, the fact of the matter is
13 the record in this case shows that your client itself
14 raised the issue about whether or not the Land Use
15 Commission now is required by its administrative
16 rules to issue the Order to Show Cause.

17 MS. GARSON: And that -- and that motion
18 was withdrawn, and I'm representing that was filed
19 mistakenly based on the mistaken impression that they
20 could do what they wanted to do with the property via
21 a special permit on ag.

22 COMMISSIONER OKUDA: In fact, on page --

23 MS. GARSON: Commissioner Okuda, the
24 petition was withdrawn, the motion was withdrawn.

25 COMMISSIONER OKUDA: But whether it was

1 withdrawn or not, the fact is your client put
2 something in the record here, put something in the
3 record here which contained factual statements which
4 would lead the Commission to believe that
5 representations made with respect to the original
6 boundary amendment was not complied with, correct?

7 Whether or not it's withdrawn, statements
8 were still made.

9 MS. GARSON: I think what you're asking me
10 is what the impression of the Commission was with the
11 filing --

12 COMMISSIONER OKUDA: No, I'm asking about
13 the statement that is on the second page of the
14 Memorandum in Support of the Motion, fourth paragraph
15 down, where it specifically states the previous
16 owners have not proceeded with the original plan.

17 Further, a residential development of this
18 nature is not justified based on the current market
19 conditions and needs. And talks about what it's
20 evidenced by.

21 In other words, these are factual
22 statements, or statements being made to a government
23 agency. And I'm assuming with the belief the
24 government agency, meaning the LUC, is going to rely
25 on them, and these are statements of fact.

1 MS. GARSON: Two points. One, it was
2 withdrawn, so, again, I'll object to us referring to
3 it.

4 Number two, those statements are also
5 supportive of the Motion to Amend that was filed in
6 2006. I don't think the Petitioner -- the Petitioner
7 basically stated those things in the Motion to Amend
8 in 2006 which has not been resolved.

9 COMMISSIONER OKUDA: Thank you, Mr. Chair.
10 No further questions.

11 CHAIRPERSON SCHEUER: Commissioners, are
12 there other questions?

13 Commissioner Chang.

14 COMMISSIONER CHANG: Just a few. Thank
15 you, Ms. Garson.

16 As I understand this motion that we're
17 addressing at this point is your Motion to Rescind
18 the Order to Show Cause because of the pending Motion
19 to Amend?

20 MS. GARSON: Correct.

21 COMMISSIONER CHANG: That motion was made
22 in 2006. As I understand, through questioning of
23 Commissioner Okuda, your legal authority is that your
24 clients' due process rights have been violated; is
25 that correct?

1 MS. GARSON: Correct.

2 COMMISSIONER CHANG: I just want to walk
3 through that same process, look at the procedural due
4 process.

5 Your client was given notice on the hearing
6 on the Motion to Amend in 2006?

7 MS. GARSON: Correct.

8 COMMISSIONER CHANG: And your client was
9 given an opportunity to participate in the Motion to
10 Amend?

11 MS. GARSON: Correct.

12 COMMISSIONER CHANG: So due process was
13 satisfied, would you agree?

14 MS. GARSON: Up until that point.

15 COMMISSIONER CHANG: Up until what point?

16 MS. GARSON: Up until the hearing.

17 Again, my point is there was no conclusion
18 to that hearing. They were supposed to come back.
19 So the procedure is still in place. I mean the
20 procedure is still in place for them to come back and
21 have their Motion to Amend heard.

22 COMMISSIONER CHANG: Let me ask you. So
23 your position is that it's an open docket, the Motion
24 to Amend? And that has not been resolved.

25 Has your client -- how has your client been

1 prejudiced? That was in 2006. So what has your
2 client done -- you've cited considerations like there
3 was the University had issues, economy, but what has
4 your client done to address that motion in a timely
5 fashion?

6 Because now we're in the year 2019, so
7 approximately how many years has passed, 13 years has
8 passed.

9 So how has your client been prejudiced by
10 that "no action" on the Motion to Amend when it has
11 been 13 years later? And you're raising this
12 question about the LUC's lack of addressing the
13 Motion to Amend or closing the Motion to Amend.

14 How has your client been prejudiced given
15 the 13 years?

16 MS. GARSON: I think the prejudice comes if
17 you move onto the OSC, and if for some reason the OSC
18 is granted, at that point that is where our client
19 would be prejudiced by not being able to come forward
20 and present its plan that was first brought forth in
21 the Motion to Amend in 2006.

22 So the prejudice comes at the time now if
23 the OSC goes forward, that they have not had that
24 opportunity.

25 COMMISSIONER CHANG: But didn't you have

1 the opportunity 12 years ago, 11 years? Doesn't your
2 client bear any responsibility to have timely brought
3 back that Motion to Amend?

4 MS. GARSON: Again, going back to what I
5 was saying to Commissioner Okuda. Your rules do not
6 have a time limit on motions. A petition, if you do
7 not act on them within 365 days, they're granted.
8 Some court rules, some other rules say if a motion is
9 not addressed within a certain period of time, it's
10 denied.

11 Your rules don't have those kind of
12 protections for a situation like that.

13 Again, all I'm saying is this is a
14 procedural anomaly and it has to be addressed before
15 you proceed.

16 And what I wanted to do is to take that
17 position, and without waiving that, going to the
18 resolution that we have brought forward with the
19 stipulation for the continuance of the OSC and the
20 one year.

21 COMMISSIONER CHANG: So are you considering
22 withdrawing your Motion to Rescind?

23 MS. GARSON: No, no.

24 COMMISSIONER CHANG: So when you say your
25 client has not had protections because there's been

1 no timely closure on the Motion to Amend, but in the
2 absence of a particular statute or rule or time
3 period, don't we apply the reasonableness?

4 Is 13 years, in your mind, reasonable for
5 no action to be taken, no initiation on the part of
6 the Petitioner to come forward and seek closure on
7 that?

8 MS. GARSON: And they are ready now.

9 COMMISSIONER CHANG: But you're saying
10 because the LUC failed to address the Motion to
11 Amend, we are precluded from addressing the Order to
12 Show Cause?

13 MS. GARSON: I'm not blaming the LUC. All
14 I'm saying is that it hasn't been granted. It hasn't
15 been denied. There has been no action on it.

16 And procedurally that should be done before
17 you move on.

18 COMMISSIONER CHANG: The LUC is caught in a
19 procedural dilemma as well. On one hand you're
20 saying we can't proceed with the motion to the Order
21 to Show Cause until we close this motion to amend.

22 MS. GARSON: Right, which is why our
23 solution -- and we truly were trying to be
24 cooperative and helpful in putting forth the
25 stipulation that we raised.

1 That wasn't the direction that the Chair
2 wanted to go, but with the stipulation, Office of
3 Planning and County have also agreed to allow us one
4 year to bring back a motion to amend before the
5 Commission within the one year and continue the OSC.

6 Again, we are trying to come up with a
7 solution, given this procedural issue. We felt that
8 that was a fair process and procedure to go through.

9 COMMISSIONER CHANG: I understand, but you
10 were sort of caught in a procedural dilemma as well,
11 given your Motion to Rescind the Order to Show Cause
12 because of failure to act on the Motion to Amend.

13 You understand the dilemma that you have
14 placed the LUC in by your motion in the absence of
15 withdrawing your motion, we're now having to address
16 that, the merits of your motion?

17 MS. GARSON: Yes. Okay. So this is
18 another thing that you can do procedurally, rescind
19 the order to show cause, order that the Petitioner
20 come back within one year with an amended motion to
21 amend. That will also work procedurally.

22 COMMISSIONER CHANG: Or procedurally you
23 could withdraw your Motion to Rescind.

24 That's all the questions I have.

25 CHAIRPERSON SCHEUER: Thank you,

1 Commissioner Chang.

2 Just at this point before any other
3 Commissioners might say anything.

4 Yes, it was my choice on which order to
5 take up your various motions, but obviously if we
6 acted positively on your motion for the order to
7 rescind, it would make all the other motions moot.
8 That's why we are taking it up.

9 MS. GARSON: It wasn't a criticism.

10 CHAIRPERSON SCHEUER: Commissioners, are
11 there further questions? Commissioner Wong.

12 COMMISSIONER WONG: So got to think this
13 one through.

14 13 years to me is a long time for anything.
15 Some of my kids from judo wasn't even born yet, so
16 they don't even know who Kalapana is, or weren't even
17 born for 9/11.

18 It just blows my mind, because if I get
19 audited by the IRS, they can only go back six, seven
20 years. And 13 years, if it was me, I would have done
21 something, say, hey, LUC, let's do something, because
22 you guys are not doing anything. Put the heat on,
23 write a letter.

24 I'm sorry, for local boy here, it just
25 doesn't make sense, just plain and simple, not legal

1 stuff. I mean, I mean I would have done -- if I was
2 the owner, even if I went to bankruptcy or something,
3 if something is outstanding, you know, my wife would
4 have killed me if I left something outstanding like
5 leaving the laundry out or something.

6 It's just this local boy would say, do
7 something. Hey, at least put some records in to say
8 I want to do something.

9 But there was nothing done from 2006 to
10 pretty much present. And I understand about
11 bankruptcy and all this, that, but somebody dropped
12 the ball on your side, or maybe LUC, but someone
13 really dropped the ball.

14 And to me this Motion to Amend is kind of
15 to me in my own mind is dead because it's too long.

16 So I can't fathom right now, unless you can
17 explain in a local, no nonsense, non-legal why we
18 should even bring this up any more.

19 MS. GARSON: I'm sorry, I actually can't
20 think local when I'm -- I'm going back to the rule.
21 That there isn't -- that you don't have a rule about
22 when motions need to be finished, and so it's still
23 there. And again, without blame, the motion is
24 pending.

25 COMMISSIONER WONG: But there is no rule to

1 say either way, is that correct?

2 MS. GARSON: That it's denied or granted?

3 COMMISSIONER WONG: Correct.

4 MS. GARSON: Correct, it's neither denied
5 or granted, which is why I'm saying it's a procedural
6 anomaly that it is here.

7 COMMISSIONER WONG: If you think about it,
8 when I get audited by the IRS, heaven forbid, now,
9 after six, seven years, they're not even going to
10 look, so I burn all my stuff. To me, if IRS come,
11 sorry, you know, I burned it.

12 So I can't figure it out. I'm sorry, it's
13 just bothering the heck out of me, just no-nonsense
14 style thinking.

15 MS. GARSON: Thank you, Commissioners.

16 CHAIRPERSON SCHEUER: Commissioners, are
17 there other questions for the Petitioner?

18 Commissioner Aczon.

19 COMMISSIONER ACZON: Just a quick one. I'm
20 trying to recollect the last meeting, and I'm just
21 kind of wondering, you know that there was an
22 outstanding Motion to Amend, and why did you file a
23 Motion to Revert? I know it was withdrawn, but I'm
24 just kind of wondering, you knew that there was a
25 pending amendment, but you filed a Motion to Revert

1 the property. Just kind of wondering what is the
2 source?

3 MS. GARSON: As I said, that was an error,
4 which is why it was withdrawn.

5 CHAIRPERSON SCHEUER: Commissioner Chang,
6 we're going to take a break in a few minutes.
7 Hopefully you can squeeze in a question or two as
8 well.

9 COMMISSIONER CHANG: Would it have been --
10 even though your Motion to Revert was withdrawn,
11 would it have been a reasonable conclusion on the
12 part of LUC that you had waived any concerns
13 regarding the Motion to Amend, given the fact that
14 you initiated the Motion to Amend, again,
15 notwithstanding that it's been reverted, but
16 procedurally wouldn't that have been a reasonable
17 conclusion by any of the parties, including the LUC,
18 that you yourself had determined that the Motion to
19 Amend was no longer viable, therefore, you were
20 looking at reverting the property?

21 Notwithstanding the fact that it has been
22 withdrawn, wouldn't you agree that that would have
23 been a reasonable conclusion by the parties that the
24 Motion to Amend was no longer viable because the
25 Petitioner themselves had determined that they were

1 going to do a different project, they could do the
2 different project if the property was reverted to the
3 original classification? Isn't that a reasonable
4 conclusion?

5 MS. GARSON: Again, I am a little bit
6 uncomfortable, and I'll object to speaking about a
7 motion that was withdrawn, so it does not have any
8 further effect.

9 With the motion, like I said, mistaken
10 belief that they could do what they wanted similar to
11 what was proposed in the 2006 amendment, so in my
12 mind, knowing those facts, no, they aren't exclusive.
13 They thought they could do the project in ag with a
14 special permit, what they wanted, so it wasn't
15 abandonment of that, they were still proceeding.

16 COMMISSIONER CHANG: But they made a
17 conscious choice that what they were proposing to do
18 under the original 2006 Motion to Amend, they could
19 now do if they reverted the property. So the
20 Petitioners themselves concluded that the Motion to
21 Amend was no longer necessary because what they were
22 proposing to do could have been done under a
23 reversion to the ag property.

24 MS. GARSON: And the motion was withdrawn.

25 CHAIRPERSON SCHEUER: Commissioners? If I

1 may.

2 I have a few questions. They're not in as
3 good an order as I would like, so bear with me.

4 Going to one of the most recent things that
5 you said, you stated your clients were under the
6 impression that they could do what they wanted with a
7 reversion, and now they have decided that they cannot
8 do what they wanted with the reversion.

9 Have I understood you correctly?

10 MS. GARSON: Correct, but that is probably
11 not whatever they wanted.

12 CHAIRPERSON SCHEUER: But I believe part of
13 the substantive issues we have on this record right
14 now is that we're not entirely clear what they want
15 to do. Is that correct?

16 MS. GARSON: So again, the Motion to Amend.

17 CHAIRPERSON SCHEUER: No, no, it's a simple
18 question.

19 Does your client know what it wants to do
20 with the property, and have they put that into the
21 record?

22 MS. GARSON: No. At the last hearing,
23 right? The new development plan, the new development
24 plan is within the exhibits in response to the OSC.

25 CHAIRPERSON SCHEUER: Could you direct me

1 specifically to which exhibit?

2 MS. GARSON: It begins on Exhibit 29, 30,
3 31 of the exhibits that were provided in the OSC.

4 CHAIRPERSON SCHEUER: So thank you for
5 directing me to that part of the record.

6 Can you point to me any part of your
7 written pleadings where you've raised this procedural
8 due process issue?

9 MS. GARSON: In our motion, page 2,
10 Commission's issuance of the OSC --

11 COURT REPORTER: Sorry, can't hear you.

12 MS. GARSON: The Commission's issuance of
13 the OSC without first addressing the 2006 Motion to
14 Amend premature, inappropriate, without
15 justification.

16 CHAIRPERSON SCHEUER: Thank you.

17 You said there was another reference to it.

18 MS. GARSON: The remainder of the due
19 process argument is actually in the section regarding
20 a continuance.

21 CHAIRPERSON SCHEUER: Thank you.

22 Have you been procedurally to this point
23 been barred from filing a new motion to amend? Have
24 you filed any motion to amend?

25 MS. GARSON: No.

1 CHAIRPERSON SCHEUER: In the -- so we spent
2 a bunch of time discussing Motions to Revert and
3 withdraw of the Motion to Revert.

4 Did your client, in its withdrawal of its
5 Motion to Revert, two things, first of all.

6 That was presented to us in a letter as a
7 request to withdraw the motion. The title of the
8 document is Request to Withdraw Motion to Substitute
9 Petitioner and Withdraw Land Use Commission Approval
10 and Revert Land Use District Boundary Classification
11 to Agricultural, Docket AO2-737.

12 It was fashioned as a request to withdraw
13 the motion. Do you believe procedurally we have to
14 act on that request?

15 MS. GARSON: I did not think that you had
16 to. I know that your website under that motion is it
17 says "withdrawn".

18 CHAIRPERSON SCHEUER: That's not responsive
19 to my question.

20 MS. GARSON: I'm sorry.

21 CHAIRPERSON SCHEUER: It's styled as a
22 request to a motion. Presumably if it is a request,
23 you're asking for us to go act on it.

24 MS. GARSON: I think a motion can be
25 withdrawn without Commission's approval.

1 CHAIRPERSON SCHEUER: So then why is it
2 phrased as a request?

3 MS. GARSON: To be polite.

4 CHAIRPERSON SCHEUER: In that request for
5 the Motion to Withdraw, did you raise the procedural
6 due process issues?

7 MS. GARSON: No.

8 CHAIRPERSON SCHEUER: Did you raise the
9 desire to file an amended motion -- a motion to
10 amend, rather?

11 MS. GARSON: They asked for an opportunity
12 to update the Commission on the project.

13 CHAIRPERSON SCHEUER: So they did not
14 actually ask for a motion, state any intent to file a
15 motion to amend or address the pending motion at all?

16 MS. GARSON: Not in this letter. I believe
17 that it was discussed during the status hearing that
18 you did allow them to have.

19 CHAIRPERSON SCHEUER: The last thing at the
20 status hearing. That's it for now, and then we'll
21 take a break.

22 At the status hearing I believe one of the
23 Petitioner's witnesses claimed that the reason why
24 the Commission did not act upon the -- said under
25 oath that they believe that the reason that the

1 Commission did not act on this was a loss of quorum.
2 Is that correct?

3 MS. GARSON: That he stated that? I read
4 that testimony, and that was a statement that was
5 made.

6 CHAIRPERSON SCHEUER: But is the statement
7 itself correct?

8 MS. GARSON: I personally do not know.

9 CHAIRPERSON SCHEUER: Have you reviewed the
10 transcript?

11 MS. GARSON: I reviewed the transcript of
12 what he said. What I haven't done is gone through
13 all the subsequent Commission meetings to see when
14 the next meeting was.

15 My educated guess is that perhaps there was
16 a loss of quorum for a period of time, but I'm sorry,
17 I really -- that's just a guess.

18 CHAIRPERSON SCHEUER: At the end of that
19 hearing, the transcript for that hearing, does it
20 indicate that there was somehow a loss of quorum?

21 MS. GARSON: 2007.

22 CHAIRPERSON SCHEUER: Correct, that your
23 witness referred to?

24 MS. GARSON: No, just said they would come
25 back.

1 CHAIRPERSON SCHEUER: Let's take a
2 ten-minute break and we will resume at exactly 11:38.

3 (Recess taken.)

4 CHAIRPERSON SCHEUER: We're back on the
5 record at 11:39, one minute late.

6 You may know that -- people may know that
7 professionally I work on water rights issues. When I
8 was young I was fond of saying that water was our
9 most important resource. Now that I'm old and
10 arrogant, I realize time is our most important
11 resource, it's the only thing we will run out of.

12 I don't have anything further. We will
13 proceed with argument by the County and the Office of
14 Planning. Commissioners? No, I'm going to move on
15 to the County.

16 MR. KIM: County doesn't have a position on
17 the motion.

18 CHAIRPERSON SCHEUER: To rescind?

19 MR. KIM: To rescind.

20 CHAIRPERSON SCHEUER: That was brief.

21 MS. APUNA: Thank you, Chair. I do have
22 some comments.

23 OP does not support Petitioner 's Motion to
24 Rescind the OSC, but would not object to the one-year
25 stay in the proceedings.

1 The arguments cited by the Petitioner for
2 rescinding the OSC are not valid. First, the absence
3 of the term "substantial commencement" in a condition
4 of the D&O does not render the OSC ineffective. The
5 Commission is empowered to issue an OSC at anytime
6 whenever it shall have reason to believe that
7 Petitioner has failed to perform according to
8 conditions or representations made by Petitioner,
9 pursuant to HRS 205-4(g) and HAR 15-15-93(b) without
10 stating so in a D&O condition that includes the term
11 "substantial commencement".

12 Secondly, Petitioner's project is subject
13 to a definitive timeline for purposes of the OSC.
14 Petitioner has represented in Finding of Fact No. 64
15 in plain and unambiguous language that the Hualalai
16 Village residential development "will be completed"
17 during the year 2007, while the development of the
18 Cultural Center and Educational Facility should have
19 commenced in 2007 and 2006, respectively. Consistent
20 with this timeline, HAR 15-15-50(c)(20) and
21 15-15-78(a) establish a ten-year deadline for DBA
22 projects, unless incremental districting is approved
23 by the Commission. Therefore, deadlines do exist for
24 Petitioner's project, both of which Petitioner has
25 failed to meet.

1 And that's all the comments I have. Thank
2 you.

3 CHAIRPERSON SCHEUER: Thank you, Ms. Apuna.
4 Commissioners, are there questions for the
5 Office of Planning? Commissioner Okuda.

6 COMMISSIONER OKUDA: Thank you, Mr. Chair.
7 Ms. Apuna, I understand that there is a
8 stipulation, basically gives all parties one year.

9 Is the Office of Planning objecting if the
10 additional time was less than a year?

11 MS. APUNA: I don't think OP would object
12 to that. I think there's room for shortening that
13 time if needed.

14 COMMISSIONER OKUDA: If you can tell us --
15 and if you can't, that is okay too -- but what would
16 be the shortest time of continuing the Order to Show
17 Cause, which the Office of Planning would think is
18 more reasonable than unreasonable?

19 MS. APUNA: I think because there are two
20 different possibilities here, we're talking about the
21 additional time in order to prepare for the OSC; and
22 then there is also additional time in order to file
23 the Motion to Amend.

24 I think as far as proceeding with the OSC,
25 I can see that they could use more time to better