

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

March 5, 2010

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on February 18, 2010, makes reference to County Communication No. 09-14, from Michael J. Molina, Chair of your Committee, regarding litigation matters submitted by the Department of the Corporation Counsel.

By correspondence dated February 1, 2010, the Department of the Corporation Counsel requested the opportunity for the Department and Special Counsel Margery Bronster to provide a status report on the legal matters relating to water and wastewater utility service on Molokai.

Your Committee notes that by Resolution No. 08-67 the Council authorized the employment of the firm of Bronster Hoshibata as the County's Special Counsel to represent the County in all legal matters pertaining to Molokai Properties, Ltd., dba Molokai Ranch; Molokai Public Utilities, Inc.; Wai'ola O Moloka'i, Inc.; and Mosco, Inc. Specifically, the County is involved in the following legal matters relating to water and wastewater utility service on Molokai: County of Maui v. Molokai Properties, Ltd., formerly known as Molokai Ranch, Ltd., et al., Civil No. 08-1-0493(1); Molokai Properties, Ltd., formerly known as Molokai Ranch, Ltd., v. Department of Health, State of Hawaii, et al., Civil No. 08-1-1877, ICA Docket No. 30056; In the Matter of Waiola O Molokai, Molokai Public Utilities, Inc., Mosco, Inc., PUC Docket No. 2008-0116; In the Matter of the Application of Molokai Public Utilities, Inc., PUC Docket No. 2009-0048; and In the Matter of the Application of Waiola O Molokai, PUC Docket No. 2009-0049.

Ms. Bronster informed your Committee that in County of Maui v. Molokai Properties, Ltd., formerly known as Molokai Ranch, Ltd., et al., Civil No. 08-1-0493(1), a trial date is set for June 14, 2010. She said that the County has received numerous favorable rulings throughout the various legal proceedings, placing the County in an advantageous position in the litigation for all matters.

Ms. Bronster further informed your Committee that the attorneys representing Molokai Properties, Ltd., have indicated that Molokai Properties, Ltd., wants to negotiate

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

March 5, 2010  
Page 2

**Committee**  
**Report No.** \_\_\_\_\_

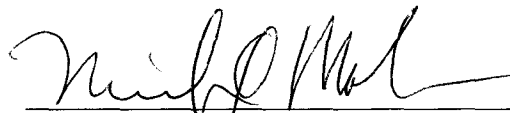
a settlement of all pending matters. She explained that the Council will need to make a determination as to whether the County should enter into settlement talks and, if so, identify the issues to discuss, and the parties that should be included in the discussion. She noted that time is of the essence, as trial preparation will need to commence well before the trial date.

Ms. Bronster requested that your Committee convene an executive meeting, closed to the public, in order to discuss strategies for settlement negotiations. Your Committee voted to convene an executive meeting for the purpose of consulting with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

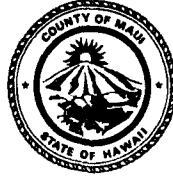
Following the executive meeting, your Committee reconvened in regular session. Your Committee voted 7-0 to recommend the filing of the correspondence dated February 1, 2010. Committee Chair Molina, Vice-Chair Mateo, and members Baisa, Kaho'ohalahala, Medeiros, Nishiki, and Pontanilla voted "aye". Committee members Johnson and Victorino were excused.

Your Committee of the Whole **RECOMMENDS** that the correspondence dated February 1, 2010, from the Department of the Corporation Counsel, attached hereto, be **FILED**.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
\_\_\_\_\_  
MICHAEL J. MOLINA, Chair

CHARMAINE TAVARES  
Mayor



BRIAN T. MOTO  
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
TELEPHONE: (808) 270-7741  
FACSIMILE: (808) 270-7152

OFFICE OF THE  
COUNTY COUNCIL

10 FEB -2 09:10

RECEIVED

February 1, 2010

Michael J. Molina, Chair  
Committee of the Whole  
Maui County Council  
200 S. High Street  
Wailuku, Hawaii 96793

Re: COW-1 Litigation Matters: County of Maui v. Molokai Properties, Ltd. et al., Civ. No. 08-1-0493(1); Molokai Properties, Ltd. v. Department of Health, Civil No. 08-1-1877, ICA Docket No. 30056; In the Matter of Waiola O Molokai, Molokai Public Utilities, Inc., Mosco, Inc., PUC Docket No. 2008-0116; In the Matter of the Application of Molokai Public Utilities, Inc., PUC Docket No. 2009-0048; and In the Matter of the Application of Waiola O Molokai, PUC Docket No. 2009-0049.

Dear Chair Molina:

The Department of the Corporation Counsel and special counsel, Margery Bronster, respectfully request the opportunity to provide a status report and to discuss other urgent and time-sensitive developments which have recently arisen in the litigation of the above-referenced lawsuit filed by the County of Maui against Molokai Properties, Ltd. The trial is scheduled for June 14, 2010. We would also like to report on the status of Molokai Properties, Ltd.'s appeal to the Intermediate Court of Appeals from a decision of the Department of Health, as well as, three related matters currently pending before the Public Utilities Commission.

We request the opportunity to discuss the County's powers, duties, privileges, immunities, and liabilities with regard to and arising out of these litigated matters with your Committee in executive session.

Very truly yours.

Handwritten signature of Jane E. Lovell in cursive.

JANE E. LOVELL  
Deputy Corporation Counsel

JEL:nng:lak