

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

November 16, 2012

Committee
Report No. _____

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

Chair and Members:

Your Policy Committee, having met on October 31, 2012, makes reference to County Communication 11-30, from Council Chair Danny A. Mateo, regarding litigation matters.

By correspondence dated October 15, 2012, the Department of the Corporation Counsel requested consideration of the possible settlement in the matter of the Tax Appeals of Kahana Partners I, LLC, Tax Appeals 10-1-0051 and 11-1-0036. Attached to the request is a copy of the Notices of Appeal in each matter and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF THE TAX APPEALS OF KAHANA PARTNERS I, LLC, CASE NO. 10-1-0051 AND CASE NO. 11-1-0036". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle Kahana Partners I, LLC's tax appeals.

Your Committee notes that the Notices of Appeal relate to property located at 4405 Honoapiilani Highway, Lahaina, owned by Kahana Partners I, LLC. The property owner is appealing the real property taxes assessed for the time periods July 1, 2010 through June 30, 2011, and July 1, 2011 through June 30, 2012, for which the total assessed value for the property was \$18,139,300 and \$16,652,400, respectively.

A Deputy Corporation Counsel provided a brief overview of the case and requested the opportunity to discuss the matter in an executive meeting, closed to the public.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted 8-0 to recommend adoption of the proposed resolution to authorize the settlement of the matter under the terms proposed in the executive meeting. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa,

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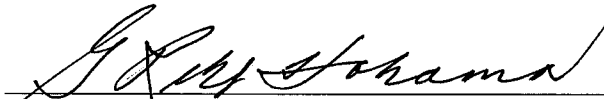
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Cochran, Mateo, Pontanilla, Victorino, and White voted “aye”. Committee member Couch was excused.

Your Policy Committee RECOMMENDS that Resolution _____, attached hereto, entitled “AUTHORIZING SETTLEMENT OF THE TAX APPEALS OF KAHANA PARTNERS I, LLC, CASE NO. 10-1-0051 AND CASE NO. 11-1-0036”, be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

pol:cr:12001(29)aa:jkn

Resolution

No. _____

AUTHORIZING SETTLEMENT OF THE
TAX APPEALS OF KAHANA PARTNERS I, LLC,
CASE NO. 10-1-0051 AND CASE NO. 11-1-0036

WHEREAS, Appellant Kahana Partners I, LLC filed two real property tax appeals in the Tax Appeal Court for the tax years 2010 and 2011, Case No. 10-1-0051 and Case No. 11-1-0036, alleging that the County of Maui improperly assessed the value of Appellant's real property; and

WHEREAS, the two appeals involved the same issues, and were consolidated by stipulation; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of these cases by way of a negotiated settlement or Offer of Judgment; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle these cases under the terms set forth in an executive meeting before the Policy Committee; and

WHEREAS, having reviewed the facts and circumstances regarding these cases and being advised of attempts to reach resolution of these cases by way of a negotiated settlement or

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Offer of Judgment by the Department of the Corporation Counsel,
the Council wishes to authorize the settlement; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves settlement of these cases under
the terms set forth in an executive meeting before the Policy
Committee; and

2. That it hereby authorizes the Mayor to execute a Release
and Settlement Agreement on behalf of the County in these cases,
under such terms and conditions as may be imposed, and agreed to,
by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the
County of Maui to satisfy said settlement of these cases, under
such terms and conditions as may be imposed, and agreed to, by the
Corporation Counsel; and

4. That certified copies of this resolution be transmitted
to the Mayor, the Director of Finance, and the Corporation
Counsel.

APPROVED AS TO FORM AND LEGALITY:



RICHARD B. ROST
Deputy Corporation Counsel
County of Maui