

COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

April 5, 2013

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on February 11, 2013, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated February 1, 2013, the Department of the Corporation Counsel requested consideration of the possible settlement of the United States Equal Employment Opportunity Commission (“EEOC”) case, Lars Sandstrom v. County of Maui, EEOC Charge 486-2009-00343. Attached to the request is a copy of the EEOC’s letter of determination, dated January 3, 2013, and a proposed resolution entitled “AUTHORIZING SETTLEMENT OF THE THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PROCEEDING LARS SANDSTROM V. COUNTY OF MAUI, EEOC CHARGE NO. 486-2009-00343”. The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case.

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement in excess of \$7,500.

Your Committee further notes the EEOC’s letter of determination states there is sufficient evidence to establish a violation of the Age Discrimination in Employment Act of 1967, as amended.

A Deputy Corporation Counsel provided an 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 on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

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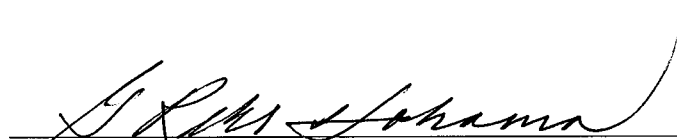
**Committee
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Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee decided against authorizing settlement of the case.

Your Committee voted 9-0 to recommend filing of the correspondence from the Department of the Corporation Counsel. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White voted "aye". Your Committee notes that filing of the correspondence does not resolve the ongoing claim, but merely disposes of the matter pending before your Committee.

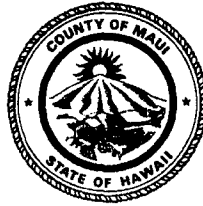
Your Policy and Intergovernmental Affairs Committee RECOMMENDS that the correspondence dated February 1, 2013, from the Department of the Corporation Counsel, attached hereto, be FILED.

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



G. RIKI HOKAMA, Chair

ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

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

OFFICE OF THE
COUNTY COUNCIL

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February 1, 2013

MEMORANDUM

TO: G. Riki Hokama, Chair
Policy and Intergovernmental Affairs Committee

FROM: Richard B. Rost *RBR*
Deputy Corporation Counsel

SUBJECT: Litigation Matters - Settlement of Claims and Lawsuits
(PIA-1)
Lars Sandstrom v. County of Maui
EEOC Charge No. 486-2009-00343

Our Department respectfully requests the opportunity to present to the Committee a proposed settlement demand with regard to the above-referenced Equal Employment Opportunity Commission ("EEOC") matter. This matter is time sensitive due to the EEOC's February 12, 2013 deadline for a response to the EEOC's settlement proposal. The Department of the Corporation Counsel has asked for an extension of this deadline, however it would be advisable to act on this matter as soon as possible.

A copy of a proposed resolution and a copy of the EEOC's January 3, 2013 letter of determination are attached.

It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

We request that a representative from Maui Police Department be in attendance during discussion of this matter.

Should you have any questions or concerns, please do not hesitate to contact me.

RBR/jcm
Attachments
cc: Gary Yabuta, Chief of Police

Resolution

No. _____

AUTHORIZING SETTLEMENT OF THE
THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PROCEEDING
LARS SANDSTROM V. COUNTY OF MAUI, EEOC CHARGE NO. 486-2009-00343

WHEREAS, Charging Party Lars Sandstrom filed a charge of discrimination with the United States Equal Employment Opportunity Commission against the County of Maui; and

WHEREAS, Sandstrom alleged he applied for employment with the Maui Police Department, but was not hired due to age discrimination; and

WHEREAS, the Equal Employment Opportunity Commission has determined that Sandstrom was discriminated against on the basis of age and requested that the County of Maui conciliate this matter to avoid litigation; and

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

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of the potential risks of litigating this matter by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

Resolution No. _____

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

1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Policy and Intergovernmental Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this matter, 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 this case, 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, the Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



RICHARD B. ROST
Deputy Corporation Counsel
County of Maui



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Honolulu Local Office**

300 Ala Moana Boulevard, Room 7-127

P. O. Box 50082

Honolulu, HI 96850-0051

Intake Information Group: (800) 669-4000

Intake Information Group TTY: (800) 669-6820

Honolulu Status Line: (866) 408-8075

Honolulu Direct Dial: (808) 541-3118

TTY (808) 541-3131

FAX (808) 541-3390

EEOC Charge No. 486-2009-00343

Lars Sandstrom
P.O. Box 4672
Honolulu, HI 96812

Charging Party

County of Maui
Police Department
55 Mahalani Drive
Wailuku, Maui, HI

Respondent

DETERMINATION

Under the authority vested in me by the United States Equal Employment Opportunity Commission ("EEOC" or "the Commission"), I issue the following determination as to the merits of the subject charge filed under the Age Discrimination in Employment Act of 1967, as amended ("ADEA"). All jurisdictional requirements have been met.

Charging Party alleges that Respondent failed to hire him for the position of Police Officer I based on his age (45 years old).

Respondent denies Charging Party's allegations.

The Commission's investigation has determined that there is reasonable cause to believe that Respondent failed to hire Charging Party for the position of Police Officer I based on his age.

Therefore, I have concluded that the evidence is sufficient to establish a violation of the statutes under the Age Discrimination in Employment Act of 1967, as amended.

Respondent is reminded that Federal law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe may violate the law. Discrimination against persons who have cooperated in Commission investigations

is also prohibited. These protections apply regardless of the Commission's determination on the merits of the charge.

Having determined that there is reason to believe that violations have occurred, the Commission now invites Respondent to join with it in a collective effort toward a just resolution of this matter. If Respondent declines to enter into conciliation discussions, or if for any other reason the Commission's representative is unable to secure an acceptable conciliation, the Director will so inform Respondent in writing and advise them of the court enforcement alternatives available to the Commission.

Investigator Rogelio Colón will be contacting you shortly to begin conciliation discussions. You can contact Investigator Colón at (808) 541-3121.

On Behalf of the Commission:

1/3/13
Date

Timothy A. Rivera (for)
Olophius Perry, District Director
Los Angeles District Office