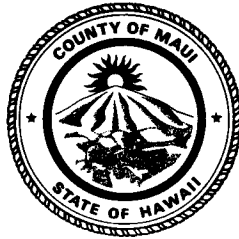


ALAN M. ARAKAWA  
Mayor



PATRICK K. WONG  
Corporation Counsel

EDWARD S. KUSHI  
First Deputy

LYDIA A. TODA  
Risk Management Officer  
Tel. No. (808) 270-7535  
Fax No. (808) 244-2646

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

July 2, 2013

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

F R O M: Moana M. Lutey, Deputy Corporation Counsel

SUBJECT: Litigation Matters (PIA-1)  
Claim of Piilani Gardens, LLC, Claim No. 2012-011

OFFICE OF THE  
COUNTY COUNCIL

2013 JUL - 2 2 10:14

RECEIVED

Our Department respectfully requests the opportunity to discuss the settlement of the above-referenced claim. There is no urgency in the scheduling of this matter.

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.

Copies of the claim and the proposed resolution are enclosed. Our department would also like to request that a representative of the Department of Environmental Management be present at the meeting to answer any questions that may arise.

Thank you for your anticipated assistance

MML:ma  
Enclosures  
cc: Kyle Ginoza, Director of Environmental Management

# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF  
CLAIM NO. 2012-011 OF PIILANI GARDENS, LLC

WHEREAS, Piilani Gardens, LLC filed Claim No. 2012-011 on December 28, 2011, against the County of Maui for damages allegedly caused by the presence of plastic debris in their irrigation system from reclaimed water on or about September 2011; and

WHEREAS, the County of Maui and Piilani Gardens, LLC, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, have reached a proposed resolution of this claim by way of a negotiated settlement; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of attempts to reach resolution of this claim by way of a negotiated settlement by the Department of the Corporation Counsel, the Council wishes to authorize settlement; now, therefore,

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

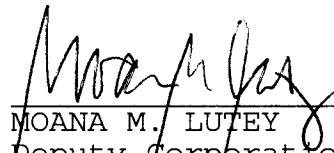
1. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by Piilani Gardens, LLC; and

2. That certified copies of this Resolution be transmitted

**Resolution No.** \_\_\_\_\_

to the Mayor, the Director of Finance, the Director of Environmental Management, and the Corporation Counsel.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
MOANA M. LUTEY  
Deputy Corporation Counsel  
County of Maui

S:\ALL\MML\Claims\2011 Claims\Silva, Marilyn\RESO.wpd

JEFFREY T. KUWADA  
County Clerk



LANCE TAGUCHI  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**

COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
www.mauicounty.gov/county/clerk

COPY

December 28, 2011

John Mullen & Company  
677 Ala Moana Boulevard, Suite 910  
Honolulu, Hawaii 96813

Attn: Arlene Laufasa  
New Claims Assignment

Dear Ms. Laufasa:

Respectfully transmitted is a copy of a claim against the County of Maui filed by Marilyn Silva, Managing Member of Piilani Gardens LLC, 150 Manino Circle, Kihei, which was received by our office on December 28, 2011.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey T. Kuwada", written over a circular stamp.

JEFFREY T. KUWADA  
County Clerk

Attachment

cc: Mayor  
✓ Corporation Counsel  
Council Chair  
Department of Finance  
Director of Public Works

2011 DEC 29 AM 10:24  
CORPORATION COUNSEL

COUNTY OF MAUI

RECEIVED

CLAIM FOR DAMAGE OR INJURY

2011 DEC 28 PM 2:04

PLEASE PRINT CLEARLY

OFFICE OF THE COUNTY CLERK

- 1. Claimant: Mr.  Mrs.  Ms.  PIILANI GARDENS,
- 2. Address: 150 MANINO CIRCLE KIHU, MAUI 96753
- 3. Telephone No.: Business 808-8741800 Residence \_\_\_\_\_
- 4. Date of Accident: N/A
- 5. Location of Accident: Property same as Claimant
- 6. Amount of Claim: Property Damage \$ 21,797.12 Personal Injury \$ \_\_\_\_\_

7. Describe the accident in detail. Indicate all the facts, causes, persons involved, witnesses, extent of damage, etc., and why you think the County is responsible. You may write on the back if needed.

see attached

8. If you carry insurance applicable to this claim, please provide the name and address of the insurance company and your policy number.

N/A

A. Did you file a claim with your insurance company? NO  
If yes, amount claimed \$ \_\_\_\_\_ Deductible amount \$ \_\_\_\_\_

B. If a claim was filed with your insurance company, what action do they intend to take?  
\_\_\_\_\_  
\_\_\_\_\_

I HEREBY DECLARE THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.

Martyn Sclwa  
(Signature of Claimant)

12/28/11  
(Date)

managing member  
PBA, LLC -



150 Manino Circle, Kihei, HI. 96753  
808-874-1800 Fax 874-1426

To Whom It May Concern,

As discussed previously we are requesting assistance and reimbursement of the retrofit to our irrigation system at Piilani Garden Apartments according to Chapter 20-30.080 (Cost to Retrofit).

Attached are the costs associated with the retrofit due to the use of contaminated reclaimed water and the loss of plants due to the mal functioning of our irrigation equipment also caused by this reclaimed water.

Thanking you in advance for your help and consideration.

Marilyn Silva

Sept. 29, 2011

from: Piilani Garden Apartments  
150 Manino Circle  
Kihei, Hi 96753

to: Maui County Dept. of Water Services

re: use of reclaimed water

Dear Sirs:

Over the past several years the irrigation system at Piilani Garden begin to experience severe problems. The landscape labourers were constantly changing nozzles as existing nozzles and filters would stop working due to debris in the sprinklers. Rotors also experienced problems due to debris buildup. And pressure to heads was much less than at the beginning, not due to lack of pressure at the meter, but build up of thick 'plaque' inside all main and lateral lines. In addition, the drip lines to planters around the apartments would stop working, and then emitters would blow out when a sufficient number we plugged. Weep lines under lawn areas also stopped working. The vigor of the property went down.

On a phone call to the waste water division we were informed that properties had experienced similiar problems with the reclaimed water. It was revealed that the department was understaffed and the screens and storage tanks were not cleaned and in fact needed repairs. Also that after September 1st things were going to improve.

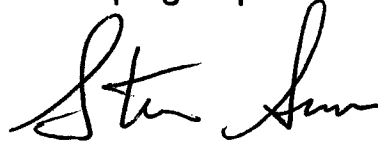
When we installed our own filter it was amazing the amount of plastic and paper debris that was coming onto our property. We now clean the main filter on a weekly basis. Also, the new drip filters are collecting a large amount of fine sand that the main filter cannot get. It is little wonder that the many rotors on property stopped working as the

insides were scoured with that sand until the friction increased and they stopped working prematurely. Solenoids and valves were adversely affected as well.

The costs we present are over and above what would be considered normal maintenance wear and tear.

It is our understanding that the costs associated with retrofitting the property to deal with this very 'dirty water' can be reimbursed through a reduced water rate over a period of time. We are requesting that compensation at this time.

Steve Snow  
Landscaping Supervisor

A handwritten signature in black ink, appearing to read "Steve Snow", written in a cursive style.