

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

September 6, 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 August 12, 2013, and August 14, 2013 (reconvene), makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated July 2, 2013, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim of Piilani Gardens, LLC, Claim 2012-011. Attached to the request is a copy of the claim and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-011 OF PIILANI GARDENS, LLC". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim.

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 claim alleges damages to the irrigation system at Piilani Garden Apartments in Kihei, Maui, Hawaii resulting from the use of contaminated reclaimed water in September 2011.

A Deputy Corporation Counsel gave a brief overview of the claim and requested to convene an executive meeting. 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.

Your Committee voted 9-0 to recommend adoption of the proposed resolution. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White voted "aye".

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**Committee
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Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-011 OF PIILANI GARDENS, LLC", be ADOPTED.

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



G. RIKI HOKAMA, Chair

pia:cr:13001(19)aa:knh

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:

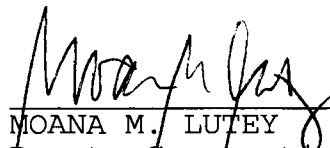
1. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by Piilani Gardens, LLC; and

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

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