

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, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated July 10, 2013, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim of State Farm Mutual Insurance Company on behalf of its insured, Eleanor Kondo and Gary Kondo, Claim 2012-058. Attached to the request is a copy of the claim and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-058 OF STATE FARM MUTUAL INSURANCE COMPANY ON BEHALF OF ITS INSURED, ELEANOR KONDO AND GARY KONDO". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim for \$8,076.89.

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 vehicle of Eleanor and Gary Kondo resulting from a collision with a County vehicle that occurred on April 13, 2011, on Haleakala Highway.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution, approved as to form and legality, incorporating a revision to clarify the correct settlement amount of \$8,076.79.

A Deputy Corporation Counsel explained the Kondos' vehicle was insured by State Farm Mutual Insurance Company at the time of the collision, and the company is a subrogee of the claim. State Farm Mutual Insurance Company, as subrogee, has alleged that the County of Maui is liable for the expenses paid by the Kondos and the company.

COUNCIL OF THE COUNTY OF MAUI
POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE

Page 2

Committee
Report No. _____

Your Committee voted 7-0 to recommend adoption of the revised proposed resolution. Committee Chair Hokama, Vice-Chair Couch, and members Carroll, Cochran, Guzman, Victorino, and White voted "aye". Committee members Baisa and Crivello were excused.

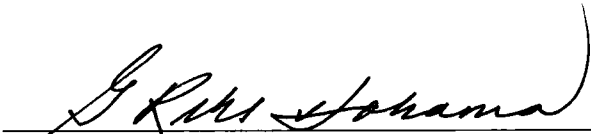
Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-058 OF STATE FARM MUTUAL INSURANCE COMPANY ON BEHALF OF ITS INSURED, ELEANOR KONDO AND GARY KONDO", be ADOPTED.

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

Page 3

**Committee
Report No.** _____

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



G. RIKI HOKAMA, Chair

pia:cr:13001(21)aa:kmh

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-058
OF STATE FARM MUTUAL INSURANCE COMPANY ON BEHALF
OF ITS INSURED, ELEANOR KONDO AND GARY KONDO

WHEREAS, Eleanor Kondo and Gary Kondo filed Claim No. 2012-058 on October 6, 2011, against the County of Maui for damages to their car as a result of a motor vehicle accident with a County vehicle on Haleakala Highway, on April 13, 2011; and

WHEREAS, Eleanor Kondo and Gary Kondo are insured for such damage by State Farm Mutual Insurance Company; and

WHEREAS, Eleanor Kondo, Gary Kondo, and State Farm Mutual Insurance Company have alleged that the County of Maui, as subrogee of this claim, is liable for a share of the expenses paid by State Farm Mutual Insurance Company; and

WHEREAS, Eleanor Kondo, Gary Kondo, State Farm Mutual Insurance Company, and the County of Maui, 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,

Resolution No. _____

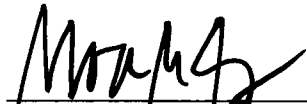
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves settlement of Claim No. 2012-058 in the amount of Eight Thousand Seventy-Six and 79/100 Dollars (\$8,076.79); and

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by Eleanor Kondo, Gary Kondo, and State Farm Mutual Insurance Company; and

3. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui