

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 31, 2013, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim of Liberty Mutual Fire Insurance Company on behalf of its insured, Eric Stevenson, Claim 2012-1022-21. Attached to the request is a copy of the claim and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-1002-21 OF LIBERTY MUTUAL FIRE INSURANCE COMPANY ON BEHALF OF ITS INSURED, ERIC STEVENSON". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim for \$8,371.82.

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 that on or about November 1, 2012, a County refuse truck caused damages to Eric Stevenson's car, which was parked on Kupuna Street in Kihei.

A Deputy Corporation Counsel explained that Eric Stevenson's vehicle was insured by Liberty Mutual Fire Insurance Company at the time of the incident, and the company is a subrogee of the claim. Liberty Mutual Fire Insurance Company, as subrogee, has alleged the County of Maui is liable for the expenses paid by Mr. Stevenson and the company.

The Deputy Corporation Counsel further explained the claim includes \$8,371.82 in property damages and a \$250 deductible, for a total of \$8,621.82. Your Committee

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noted that the proposed resolution did not include the \$250 deductible. Your Committee revised the proposed resolution to clarify the correct settlement amount of \$8,621.82.

Your Committee noted the police report attached to the claim indicates the driver of the County refuse truck had difficulty executing a right turn onto Kupuna Street because of the number of cars parked on Kupuna Street, including Mr. Stevenson's vehicle. Your Committee agreed the matter of on-street parking should be referred to your Infrastructure and Environmental Management Committee.

Your Committee voted 6-1 to recommend adoption of the revised proposed resolution, and referral of the matter of on-street parking to your Infrastructure and Environmental Management Committee. Committee Chair Hokama, and members Carroll, Cochran, Guzman, Victorino, and White voted "aye". Vice-Chair Couch voted "no". Committee members Baisa and Crivello were excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Policy and Intergovernmental Affairs Committee **RECOMMENDS** the following:

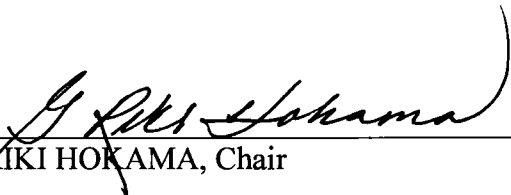
1. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-1022-21 OF LIBERTY MUTUAL FIRE INSURANCE COMPANY ON BEHALF OF ITS INSURED, ERIC STEVENSON", be ADOPTED; and
2. That the matter of on-street parking be REFERRED to your Infrastructure and Environmental Management Committee.

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



G. RIKI HOKAMA, Chair

pia:cr:13001(25)aa:kmh

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-1022-21
OF LIBERTY MUTUAL FIRE INSURANCE COMPANY
ON BEHALF OF ITS INSURED, ERIC STEVENSON

WHEREAS, Eric Stevenson filed Claim No. 2012-1022-21 on February 8, 2013, against the County of Maui for damages caused to his parked vehicle at Kupuna Street, Kihei, on November 1, 2012, by a County refuse truck; and

WHEREAS, Eric Stevenson is insured for such damage by Liberty Mutual Fire Insurance Company; and

WHEREAS, Liberty Mutual Fire Insurance Company, as subrogee of this claim, has alleged that the County of Maui is liable for the expenses paid by Eric Stevenson and Liberty Mutual Fire Insurance Company; and

WHEREAS, the County of Maui, Eric Stevenson, and Liberty Mutual Fire Insurance Company, 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:


Resolution No. _____

1. That it hereby approves settlement of Claim No. 2012-1022-21 in the amount of EIGHT THOUSAND SIX HUNDRED TWENTY-ONE AND 82/100 DOLLARS (\$8,621.82); and

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by Eric Stevenson and Liberty Mutual Insurance; and

3. That certified copies of this resolution be transmitted 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