

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

August 19, 2014

**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 March 17, 2014, March 25, 2014, June 30, 2014, and July 28, 2014, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated March 5, 2014, the Department of the Corporation Counsel requested consideration of the possible settlement of Douglas Leone and Patricia A. Perkins-Leone v. County of Maui, et al., Civil 07-1-0496(3) (“Leone lawsuit”). Attached to the request is a proposed resolution, entitled “AUTHORIZING SETTLEMENT OF DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE V. COUNTY OF MAUI, ET AL., CIVIL NO. 07-1-0496(3)”, and a copy of the complaint.

The complaint alleges inverse condemnation, denial of substantive due process rights, and denial of equal protection, and demands damages, including punitive damages. The claims arise out of a dispute concerning the Leone plaintiffs’ proposal to construct a single-family residence on property located at 4492 Makena Keoneoio Road, Makena, Hawaii, consisting of approximately 20,343 square feet. The purpose of the proposed resolution is to authorize settlement of the case.

By correspondence dated March 5, 2014, the Department of the Corporation Counsel also requested consideration of the possible settlement of William L. Larson, et al. v. County of Maui, et al., Civil 09-1-0413(2). Attached to the request is a proposed resolution, entitled “AUTHORIZING SETTLEMENT OF WILLIAM L. LARSON, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 09-1-0413(2)”, and a copy of the complaint.

The complaint contains similar allegations to the allegations made in the Leone lawsuit. However, the claims arise out of a dispute concerning the Larson plaintiffs’ proposal to construct a single-family residence on each of two properties located at

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4500 Makena Keoneoio Road, Makena, Hawaii, consisting of approximately 24,829 square feet, and 4508 Makena Keoneoio Road, Makena, Hawaii, consisting of approximately 19,166 square feet. The purpose of the proposed resolution is to authorize settlement of the case.

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

The Corporation Counsel noted the cases had been consolidated for purposes of trial and asked they be considered together. A Deputy Corporation Counsel provided a brief overview of the cases and requested the opportunity to discuss the proposed settlement of both cases in an executive meeting.

Your Committee voted to convene an executive meeting on both cases, 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. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted 7-0 to recommend adoption of both proposed resolutions to authorize the settlement of the matters under the terms proposed in the executive meeting. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Carroll, Crivello, Guzman, and White voted "aye". Committee members Cochran and Victorino were excused.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS the following:

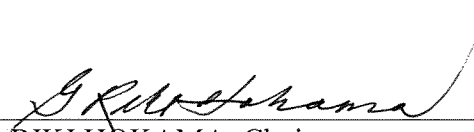
1. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE V. COUNTY OF MAUI, ET AL., CIVIL NO. 07-1-0496(3)", be ADOPTED; and
2. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF WILLIAM L. LARSON, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 09-1-0413(2)", be ADOPTED.

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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:14001(34 and 35)aa:cmn

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE
V. COUNTY OF MAUI, ET AL.,
CIVIL NO. 07-1-0496(3)

WHEREAS, Plaintiffs DOUGLAS LEONE and PATRICIA A. PERKINS-LEONE filed a lawsuit in the Circuit Court of the Second Circuit of the State of Hawaii, Civil No. 07-1-0496(3), against the County of Maui, on November 19, 2007, asserting claims of inverse condemnation of their property, denial of substantive due process rights, and denial of equal protection, and demanding damages including punitive damages; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of this case by way of a negotiated settlement or Offer of Judgment; 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 attempts to reach

Resolution No. _____

resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to discuss the opposing side's settlement offer; now, therefore,

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 case, 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

Resolution No. _____

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Planning Director, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



CALEB P. ROWE
Deputy Corporation Counsel
County of Maui

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
WILLIAM L. LARSON, ET AL. V. COUNTY OF MAUI, ET AL.,
CIVIL NO. 09-1-0413(2)

WHEREAS, Plaintiffs William L. Larson and Nancy H. Larson filed a lawsuit in the Second Circuit Court of the State of Hawaii, Civil No. 09-1-0413(2), against the County of Maui on June 1, 2009, asserting claims of inverse condemnation of their property, denial of substantive due process rights, and denial of equal protection, and demanding damages including punitive damages; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of this case by way of a negotiated settlement or Offer of Judgment; 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 attempts to reach resolution of this case by way of a negotiated settlement or Offer

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of Judgment by the Department of the Corporation Counsel, the Council wishes to discuss the opposing side's settlement offer; now, therefore,

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 case, 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

Resolution No. _____

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Planning Director, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



CALEB P. ROWE
Deputy Corporation Counsel
County of Maui

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