

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

September 18, 2015

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on August 25, 2015, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated June 22, 2015, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim 2013-1064-10 of First Insurance Company of Hawaii, Ltd., on behalf of its insured, Nelia Padiong. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2013-1064-10 OF FIRST INSURANCE COMPANY OF HAWAII, LTD., ON BEHALF OF ITS INSURED, NELIA PADIONG," and a copy of the claim. The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim for \$15,470.05.

Your Committee notes the claim alleges damages to Nelia Padiong's vehicle resulting from a collision involving a Department of Police vehicle on April 25, 2013.

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

The Department of the Corporation Counsel transmitted a revised proposed resolution incorporating nonsubstantive revisions.

A Deputy Corporation Counsel provided a brief overview of the claim. She said a police officer fell asleep while driving a patrol vehicle on Kanaloa Avenue in Central Maui and collided into Ms. Padiong's vehicle, which was parked on the side of the road in a marked parking space. The claim

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consists of vehicle repair and car rental reimbursement costs and reimbursement of Ms. Padiong's insurance deductible.

Your Committee discussed the adequacy of officer training and Departmental operating procedures.

Your Committee voted 9-0 to recommend adoption of the revised proposed resolution to authorize the settlement of the matter for \$15,470.05. Committee Chair Guzman, Vice-Chair Crivello, and members Baisa, Carroll, Cochran, Couch, Hokama, Victorino, and White voted "aye."

Your Committee of the Whole RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2013-1064-10 OF FIRST INSURANCE COMPANY OF HAWAII, LTD., ON BEHALF OF ITS INSURED, NELIA PADIONG," be ADOPTED.

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



DON S. GUZMAN, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 2013-1064-10
OF FIRST INSURANCE COMPANY OF HAWAII, LTD.,
ON BEHALF OF ITS INSURED, NELIA PADIONG

WHEREAS, First Insurance Company of Hawaii, Ltd., filed Claim No. 2013-1064-10 on June 13, 2013, against the County of Maui for damages to Nelia Padiong's vehicle resulting from a collision involving a Department of Police fleet vehicle on April 25, 2013; and

WHEREAS, Nelia Padiong is insured for such damage by First Insurance Company of Hawaii, Ltd.; and

WHEREAS, First Insurance Company of Hawaii, Ltd., as subrogee of this claim, has alleged that the County of Maui is liable for the expenses paid by First Insurance Company of Hawaii, Ltd.; and

WHEREAS, the County of Maui and First Insurance Company of Hawaii, Ltd., 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:

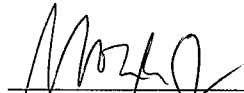
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1. That it hereby approves settlement of Claim No. 2013-1064-10 in the amount of \$15,470.05; and

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by First Insurance Company of Hawaii, Ltd.; and

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

APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

RISK - 2015-0152