

COUNCIL OF THE COUNTY OF MAUI

**PARKS, RECREATION, ENERGY, AND  
LEGAL AFFAIRS COMMITTEE**

March 10, 2017

**Committee  
Report No. \_\_\_\_\_**

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

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on February 14, 2017, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated February 7, 2017, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim 2014-1129-16-0001 by Marilyn Silva on behalf of Piilani Gardens LLC. Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2014-1129-16-0001 OF MARILYN SILVA ON BEHALF OF PIILANI GARDENS LLC." The purpose of the proposed resolution is to authorize the Department to settle the case.

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of the authority granted by that provision.

A Deputy Corporation Counsel provided a brief overview of the case. The claim involved alleged dust and plant damage to the claimant's property in Piilani Gardens. The alleged damage occurred during a period of overlap in the work on the roundabout and bikeway. The claimant signed a right-of-entry with the County which indemnifies the claimant from any damage to her property caused by the work. The case is currently in mediation.

Because the case involves ongoing litigation, the Deputy requested the opportunity to convene an executive meeting.

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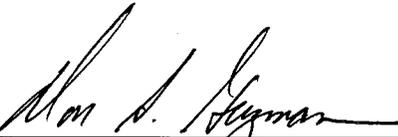
**Committee  
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Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 8-0 to recommend adoption of the proposed resolution to authorize settlement of the case under the terms discussed in the executive meeting. Committee Chair Guzman, Vice-Chair King, and members Atay, Carroll, Cochran, Hokama, Sugimura, and White voted "aye." Committee member Crivello was excused.

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2014-1129-16-0001 OF MARILYN SILVA ON BEHALF OF PIILANI GARDENS LLC," 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. 2014-1129-16-0001  
OF MARILYN SILVA ON BEHALF OF PIILANI GARDENS LLC

WHEREAS, Marilyn Silva on behalf of Piilani Gardens, LLC, filed Claim No. 2014-1129-16-0001 on October 30, 2013, against the County of Maui for dust and dirt damages to her property located at 150 Manino Circle, Kihei, Maui, Hawaii; and

WHEREAS, the County of Maui and Marilyn Silva, 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, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; 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 discuss a settlement offer; now, therefore,

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

1. That it hereby approves settlement of Claim No. 2014-1129-16-0001 under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

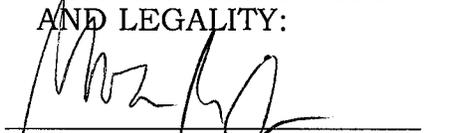
**Resolution No. \_\_\_\_\_**

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 the Department 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

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

APPROVED AS TO FORM  
AND LEGALITY:



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MOANA M. LUTEY  
Deputy Corporation Counsel  
County of Maui