

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 7, 2006

**Committee
Report No.**

_____ 06-48

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 March 14, 2006, and March 16, 2006, makes reference to County Communication No. 05-24, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated February 22, 2006, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of KRS Associates II, LLC, et al. v. County of Maui, Civil No. 05-1-0411(3). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF KRS ASSOCIATES II, LLC, ET AL. v. COUNTY OF MAUI, CIVIL NO. 05-1-0411(3)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case for \$30,000.

Your Committee notes that the complaint claims damages arising from an alleged breach of contract.

At its meeting of March 14, 2006, your Committee met with the Director of Water Supply and two Deputy Corporation Counsel.

There was no public testimony.

Your Committee received written testimony dated March 14, 2006, from David Goode, KRS Associates II, LLC (KRS), pertaining to the reimbursement of easement costs for the Kulamanu Subdivision.

Due to the shortage of time, your Committee deferred discussion on the matter and recessed its meeting to March 16, 2006.

At its reconvened meeting of March 16, 2006, your Committee met with the Director of Water Supply and two Deputy Corporation Counsel.

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A Deputy Corporation Counsel provided a brief overview of the case. He stated that under the amended contract, the County was required to reimburse KRS 50 percent of the total cost incurred to acquire the easements. KRS claims that the 50 percent reimbursement totals approximately \$48,000. He further stated that the County disputes the cost incurred by KRS to acquire the easements, particularly the \$57,581 cost of the easement acquired from Haleakala Ranch.

A member of your Committee questioned whether the contract between the County and KRS may have been too vague.

Your Committee voted to convene an executive meeting for the purpose of consulting with legal counsel on liability issues in the matter, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

At its executive meeting, your Committee met with the Director of Water Supply and two Deputy Corporation Counsel.

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 to recommend adoption of the proposed resolution to authorize the settlement of the matter for \$30,000.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF KRS ASSOCIATES II, LLC, ET AL. v. COUNTY OF MAUI, CIVIL NO. 05-1-0411(3)" be ADOPTED.

Adoption of this report is respectfully requested.

