

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

August 1, 2003

**Committee
Report No.**

03-71

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 July 21, 2003, makes reference to County Communication No. 03-19, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated June 18, 2003, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Fiona J. Leigh's Claim No. 2001-159. Attached to the request was a copy of the claim and related documents. Also attached to the request was a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2001-159 OF FIONA J. LEIGH". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case for \$19,909.98.

By correspondence dated July 11, 2003, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2001-159 OF FIONA J. LEIGH AND STATE FARM FIRE & CASUALTY COMPANY". The revised proposed resolution clarifies that the settlement includes a subrogation claim by State Farm Fire & Casualty Company.

Your Committee notes that the claim alleges damage to Ms. Leigh's property caused by wastewater overflow into her residence on Kanaloa Avenue in Kahului, Maui, Hawaii, on May 14, 2001.

At its meeting, your Committee met with the Wastewater Reclamation Division Chief, Department of Public Works and Environmental Management; the First Deputy Corporation Counsel; and a Deputy Corporation Counsel.

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There being no public testimony, the Deputy Corporation Counsel provided a brief overview of the case, stating that the raw sewage that overflowed into Ms. Leigh's home was believed to have been caused by a break in a sewer line. Photographs of Ms. Leigh's property were distributed to your Committee. Ms. Leigh had originally sought \$60,000 in damages. Your Committee was informed that the 40 percent depreciation rate applied by the insurance adjuster is the norm in this type of property damage claim.

The Wastewater Reclamation Division Chief informed your Committee that it appeared as though the sewer line had been damaged through age, causing a blockage which resulted in sewage backing up into Ms. Leigh's house. One section of the pipeline was immediately replaced following the spill, and then the rest of the pipeline down to Lower Beach Road was also replaced.

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 approve the settlement of the matter for \$19,909.98.

Your Committee of the Whole **RECOMMENDS** that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2001-159 OF FIONA J. LEIGH AND STATE FARM FIRE & CASUALTY COMPANY" be **ADOPTED**.

Adoption of this report is respectfully requested.

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