

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

November 21, 2003

**Committee
Report No.** 03-141

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 October 13, 2003 and November 5, 2003, makes reference to County Communication No. 03-249, from the First Deputy Corporation Counsel, transmitting a copy of the complaint in Sunstone Realty Partners VIII, LLC v. Maui County, et al., Civil No. 03-1-0136 (2), Circuit Court of the Second Circuit, State of Hawaii.

The purpose of the communication is to discuss the status of the ongoing litigation and liability issues.

Your Committee notes that the complaint alleges that the County and various former and current Council members are liable for an unconstitutional taking of private property, and for due process and equal protection violations relating to a request for an amendment to the West Maui Community Plan.

At its meeting of October 13, 2003, your Committee met with the First Deputy Corporation Counsel.

There being no public testimony, the First Deputy Corporation Counsel provided a brief overview of the case, informing your Committee that the State court action alleges due process and takings claims against the County. The County has filed motions to dismiss the complaint, which the Court has yet to decide. The First Deputy Corporation Counsel requested the opportunity to discuss the matter in an executive meeting.

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 First Deputy Corporation Counsel and a Deputy Corporation Counsel.

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Following the executive meeting, your Committee reconvened in regular session. Your Committee deferred the matter pending further discussion.

At its meeting of November 5, 2003, your Committee met with the First Deputy Corporation Counsel.

There being no public testimony, the First Deputy Corporation Counsel requested the opportunity to further discuss the matter in an executive meeting.

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 First 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 filing of the communication.

Your Committee of the Whole **RECOMMENDS** that County Communication No. 03-249 be FILED.

Adoption of this report is respectfully requested.

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