

Resolution

No. 25-43

AUTHORIZING SETTLEMENT OF KOMAR MAUI PROPERTIES I LLC V. COUNTY OF MAUI, ET AL., CIVIL NO. 1:24-CV-00178

WHEREAS, the County of Maui, Department of Environmental Management ("County") filed a complaint on April 30, 2024 in the Circuit Court of the Second Circuit, State of Hawaii, Civil No. 2CCV-24-0000375 against Komar Maui Properties I LLC ("Komar Properties") for eminent domain of real property identified as Tax Map Key No. (2) 3-8-3-20 ("subject property"); and

WHEREAS, the above-referenced matter was removed to the United States District Court, District of Hawai'i on or about April 30, 2024 and assigned Civil No. 1:24-cv-00203; and

WHEREAS, Komar Properties filed a complaint on April 17, 2024 in the United States District Court, District of Hawai'i, Civil No. 1:24-cv-00178 against the County for declaratory and injunctive relief; and

WHEREAS, the two matters were consolidated in the United States District Court, District of Hawai'i on October 24, 2024 under Komar Maui Properties I LLC vs. County of Maui, County of Maui of Environmental Management, Civil No. 1:24-cv-00178; and

WHEREAS, in the consolidated action, the County brought an action in eminent domain against Komar Properties for the subject property, and Komar Properties alleges that the County failed to supplement an Environmental Impact Statement for the subject property in accordance with Chapter 343, Hawaii Revised Statutes; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a 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 in an executive meeting before the Government Relations, Ethics, and Transparency Committee; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a

negotiated settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

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

1. That under Maui County Code section 3.16.020, it approves settlement of Komar Maui Properties I LLC vs. County of Maui, et al., under the terms discussed in an executive meeting before its Government Relations, Ethics and Transparency Committee;
2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under the terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement approval;
3. That it authorizes the Director of Finance of the County of Maui to satisfy settlement of this case, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement approval; and
4. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



THOMAS KOLBE
Deputy Corporation Counsel
County of Maui
LIT-8150

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Charles R. Lee". The signature is written in black ink and is positioned above a horizontal line.

Upon the request of the Mayor.