

**COUNCIL OF THE COUNTY OF MAUI**  
**GOVERNANCE, ETHICS, AND**  
**TRANSPARENCY COMMITTEE**

June 18, 2019

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

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

Chair and Members:

This report recommends adoption of a resolution authorizing settlement of County of Maui v. Pedro Tolentino, Jr., et al., Civil 18-1-0124(1).

Your Governance, Ethics, and Transparency Committee, having met on March 12, 2019, and June 4, 2019, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated December 3, 2018, the Department of the Corporation Counsel requested consideration of the possible settlement of County of Maui v. Pedro Tolentino, Jr., et al., Civil 18-1-0124(1). Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF COUNTY OF MAUI vs. PEDRO TOLENTINO, JR., ET AL., CIVIL NO. 18-1-0124(1)." The purpose of the proposed resolution is to authorize the Department to settle the case.

The Department also transmitted a copy of the complaint. The complaint alleges declaratory and injunctive relief related to alleged violations of the Comprehensive Zoning Provisions in Title 19, Maui County Code. The alleged violations occurred on real property owned by one or both Defendants at 1017 Houston Street and 260 Ilima Place, Lanai City, Hawaii. The complaint seeks an injunction to enforce compliance and payment of civil fines for the violations.

By correspondence dated May 24, 2019, the Department transmitted a revised proposed resolution, along with another copy of the complaint. The revised proposed resolution updates the name of the Committee before which the matter is pending in the 2019-2021 Council term.

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Your Committee notes the Council's Parks, Recreation, Energy, and Legal Affairs Committee (2017-2019 Council term) met on December 10, 2018.

Your Committee further notes Section 3.16.020(F), Maui County Code, authorizes the Department to recommend to the Council offers to adjust, settle, or compromise any claim, or to recommend to the Council that the County make an offer of settlement or judgment in any case in which the County is a party.

A Deputy Corporation Counsel provided a brief overview of the case. He said the County had received a new settlement offer from the Defendants which he wanted to present in an executive meeting. The Deputy said the precipitating factor for the new settlement proposal is that one of the properties is in escrow to be sold for \$290,000.

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

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 9-0 to recommend adoption of the revised proposed resolution, incorporating revisions to the second and third BE IT RESOLVED paragraphs to remove the phrase, "under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel." Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Hokama, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye."

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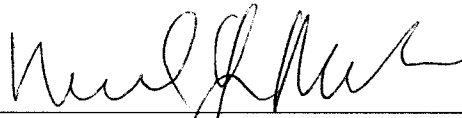
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Your Committee is in receipt of a further revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

Your Governance, Ethics, and Transparency Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF COUNTY OF MAUI vs. PEDRO TOLENTINO, JR., ET AL., CIVIL NO. 18-1-0124(1)," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



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MICHAEL J. MOLINA, Chair

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# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF  
COUNTY OF MAUI vs. PEDRO TOLENTINO, JR., ET AL.,  
CIVIL NO. 18-1-0124(1)

WHEREAS, Plaintiff County of Maui and Department of Planning filed a Complaint in the Circuit Court of the Second Circuit, State of Hawaii, on March 15, 2018, Civil No. 18-1-0124(1), against Defendants Pedro Tolentino, Jr., and Eddie Braceros Tolentino, to obtain an injunction to enforce compliance with the Maui County Code provisions which the Defendants Tolentinos were violating, and to enforce payment of the civil fines for said County Code violations;

WHEREAS, Defendants filed their Answers on May 14, 2018; 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 case by way of a negotiated settlement and stipulated dismissal; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle and stipulate to dismiss this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and

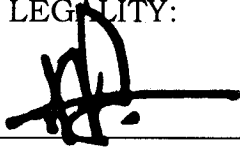
**Resolution No. \_\_\_\_\_**

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised by the Department of the Corporation Counsel, the Council wishes to authorize the settlement and stipulated dismissal; now, therefore,

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

1. That it approves settlement and stipulated dismissal of this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and
2. That it further authorizes the Mayor to execute a Stipulation for Dismissal on behalf of the County in this case; and
3. That it hereby authorizes the Director of Finance to satisfy as necessary said stipulated dismissal of this case, and
4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Planning Director, and the Corporation Counsel.

APPROVED AS TO FORM  
AND LEGALITY:



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BRIAN A. BILBERRY  
Deputy Corporation Counsel  
County of Maui