

COUNCIL OF THE COUNTY OF MAUI

**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE**

February 2, 2018

**Committee
Report No. _____**

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

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on September 19, 2017, and January 23, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated September 12, 2017, the Department of the Corporation Counsel requested consideration of an increase in compensation for the employment of special counsel Kobayashi Sugita & Goda, LLP in Harry Donenfeld v. County of Maui, et al., Civil 16-00381 DKW-KJM, and the possible settlement of the case. Attached to the request are two proposed resolutions, one entitled "AUTHORIZING AN INCREASE IN COMPENSATION RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI SUGITA & GODA, LLP IN HARRY DONENFELD v. COUNTY OF MAUI, ET AL., USDC CIVIL NO. 16-00381 DKW-KJM," and another entitled "AUTHORIZING SETTLEMENT OF HARRY DONENFELD v. COUNTY OF MAUI, ET AL., USDC CIVIL NO. 16-00381 DKW-KJM." The Department also attached a copy of the First Amended Complaint and related documents to the request.

The purpose of the first proposed resolution is to authorize the Department to increase the compensation limit for the employment of special counsel for Mayor Alan Arakawa in his individual capacity by \$75,000, for a total compensation not to exceed \$150,000. The purpose of the second proposed resolution is to authorize the Department to settle the case under the terms set forth in an executive meeting before your Committee.

COUNCIL OF THE COUNTY OF MAUI
PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE

Page 2

Committee
Report No. _____

By correspondence dated January 9, 2018, the Department of the Corporation Counsel transmitted a revised proposed resolution to authorize the Department to increase the compensation limit for the employment of special counsel for Mayor Alan Arakawa in his individual capacity in the case by \$21,815.33, for a total compensation not to exceed \$96,815.33.

Your Committee notes the First Amended Complaint alleges Harry Donenfeld was terminated as the Maui County Film Commissioner in violation of his due process rights under the United States and Hawaii Constitutions, breach of contract, defamation, and violations of statutory privacy interests, among other things. Mr. Donenfeld seeks damages including punitive damages.

Your Committee notes the Council's Committee of the Whole (2015-2017 Council term) previously reported on this matter through Committee Report 16-128, which recommended that a proposed resolution, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI SUGITA & GODA, LLP IN HARRY DONENFELD v. COUNTY OF MAUI, ET AL., USDC CIVIL NO. 16-00381 DKW-KJM," be adopted. At its meeting of August 23, 2016, the Council adopted the recommendation in Committee Report 16-128 (Resolution 16-105). Resolution 16-105 authorized the employment of Kobayashi Sugita & Goda, LLP as special counsel for Alan Arakawa in his individual capacity in the case, for a total compensation not to exceed \$75,000.

Your Committee also notes it previously reported on this matter through Committee Report 17-130, which recommended that a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF HARRY DONENFELD v. COUNTY OF MAUI, ET AL., USDC CIVIL NO. 16-00381 DKW-KJM," be adopted. At its meeting of October 6, 2017, the Council adopted the recommendation in Committee Report 17-130 (Resolution 17-142).

COUNCIL OF THE COUNTY OF MAUI
PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE

Page 3

Committee
Report No. _____

Your Committee further notes Section 3-6(6), Revised Charter of the County of Maui (1983), as amended, authorizes the Council to retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Charter Section 3-6(6) also requires that the compensation, if any, to be paid for the services be specified.

A Deputy Corporation Counsel said the case had been settled and the only matter remaining is the payment of special counsel's final bill. The balance remaining following payment of the \$75,000 initially authorized by the Council is \$21,815.33.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution. Committee Chair Guzman and members Carroll, Crivello, Hokama, and White voted "aye." Committee Vice-Chair King and members Atay, Cochran, and Sugimura were excused.

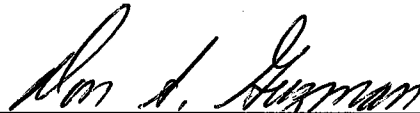
Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING AN INCREASE IN COMPENSATION RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI SUGITA & GODA, LLP IN HARRY DONENFELD v. COUNTY OF MAUI, ET AL., USDC CIVIL NO. 16-00381 DKW-KJM," be ADOPTED.

COUNCIL OF THE COUNTY OF MAUI
**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE**

Page 4

**Committee
Report No.** _____

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



DON S. GUZMAN, Chair

prl:cr:18001(24)aa:cmn

Resolution

No. _____

AUTHORIZING AN INCREASE IN COMPENSATION RELATED
TO THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI SUGITA
& GODA, LLP IN HARRY DONENFELD v. COUNTY OF MAUI,
ET AL., USDC CIVIL NO. 16-00381 DKW-KJM

WHEREAS, by Resolution No. 16-105, the Council authorized the employment of special counsel KOBAYASHI SUGITA & GODA, LLP ("special counsel") to represent Alan Arakawa, as sued "personally" in Harry Donenfeld v. County of Maui, et al.; and

WHEREAS, the Department of the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$21,815.33 for payment of special counsel's final billing for this case, for a total compensation not exceeding \$96,815.33; now, therefore,

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

1. That the Council hereby approves and authorizes an increase in compensation for the employment of special counsel Kobayashi Sugita & Goda, LLP for the representation of Alan Arakawa "personally" in this case by \$21,815.33 for a total compensation not exceeding \$96,815.33; and

Resolution No. _____

2. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

APPROVED AS TO FORM AND LEGALITY:



BRIAN A. BILBERRY
Deputy Corporation Counsel
County of Maui