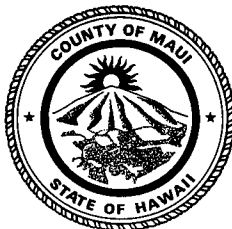


PRL-1(8)

ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
First Deputy

LYDIA A. TODA
Risk Management Officer
Tel. No. (808) 270-7535
Fax No. (808) 270-1761

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

OFFICE OF THE
COUNTY COUNCIL

2017 FEB - 7 PM 4: 02

RECEIVED

February 7, 2017

MEMO TO: Don S. Guzman, Chair
Parks, Recreation, Energy, and Legal Affairs Committee

FROM: Moana M. Lutey, Deputy Corporation Counsel

SUBJECT: LITIGATION MATTERS - Settlement of Claims and Lawsuits
(PRL-1)
Settlement of Claim: Lexington Insurance Company on behalf of
its insured, Kihei Sands AOAO
Claim No.: 30153916459-0001

Pursuant to Section 3.16.020B of the Maui County Code, our department hereby requests authorization to discuss settlement of the aforementioned claim. It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee. There is no immediate deadline to this matter.

Copies of the claim and proposed resolution are enclosed. We request that a representative from the Department of Water Supply be in attendance during discussion of this matter. If you have any questions, or concerns, please do not hesitate to contact me.

cc: David Taylor, Director

MML:cs

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30153916459-0001
OF LEXINGTON INSURANCE COMPANY,
ON BEHALF OF ITS INSURED, KIHEI SANDS AOA

WHEREAS, Lexington Insurance Company filed Claim No. 30153916459-0001 on April 29, 2015, against the County of Maui for property damage to the Kihei Sands Condominium resulting from a broken water pipe on March 26, 2015; and

WHEREAS, Kihei Sands AOA is insured for such damage by Lexington Insurance Company; and

WHEREAS, Lexington Insurance Company, as subrogee of this claim, has alleged that the County of Maui is liable for the expenses paid by Lexington Insurance Company; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of attempts to reach resolution of this claim by way of a negotiated settlement by the Department of the Corporation Counsel, the Council wishes to discuss the a settlement offer; now, therefore,

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

Resolution No. _____

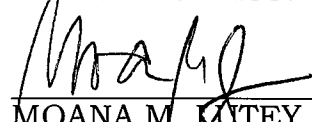
1. That it hereby approves settlement of Claim No. 30153916459-0001 under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of the Department of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

4. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of the Department of Water Supply, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:

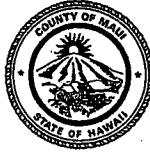


MOANA M. KUTEY
Deputy Corporation Counsel
County of Maui

RISK 2015-0233

DANNY A. MATEO
County Clerk

RECEIVED



JOSIAH K. NISHITA
Deputy County Clerk

RECEIVED
CORPORATION COUNSEL

2015 MAY -6 PM 1: 55

OFFICE OF THE COUNTY CLERK

2015 MAY -6 PM 1: 41

CORPORATION COUNSEL
RISK MANAGEMENT

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

JK 5/6/15
Jk email 5-7-15
to ML 5-7-16

May 6, 2015

Sedgwick Claims Management Services, Inc.
Via email: 6395CountyofMaui@sedgwickcms.com

Attn: Unit Code 99

Respectfully transmitted is a copy of a claim against the County of Maui filed by Corey H. Chubner, on behalf of Lexington Insurance Company, which was received by our office on May 5, 2015.

Respectfully,

A handwritten signature in black ink, appearing to read "Danny A. Mateo".

DANNY A. MATEO
County Clerk

Attachment

cc: Mayor
✓ Corporation Counsel
Council Chair

/lks

COUNTY OF MAUI

CLAIM FOR DAMAGE OR INJURY

PLEASE PRINT CLEARLY

- 1. Claimant: Mr. Mrs. Ms. Lexington Insurance Company
- 2. Address: c/o Denenberg Tuffley, PLLC 28411 Northwestern Highway, Ste. 600, Southfield, MI 48034
- 3. Telephone No.: Business 248-549-3900 Residence _____
- 4. Date of Accident: March 26, 2015
- 5. Location of Accident: 115 N. Kihei Road, Kihei, HI 96753
- 6. Amount of Claim: Property Damage \$ TBD Personal Injury \$ TBD

7. Describe the accident in detail. Indicate all the facts, causes, persons involved, witnesses, extent of damage, etc., and why you think the County is responsible. You may write on the back if needed.

A fire hydrant failed at the base and flooded Claimant's insured's property.

As a result, water, mud, and sand flooded all the ground floor units and the swimming pool. Claimant will provide proof of loss documents once the adjustment for this loss is complete.

RECEIVED
 2015 MAY -5 PM 12:35
 OFFICE OF THE
 COUNTY CLERK

- 8. If you carry insurance applicable to this claim, please provide the name and address of the insurance company and your policy number.
- The Claimant is the insurance company for the insured, Kihei Sands, AOAO.
- Policy No. 41-LX-086477789-5

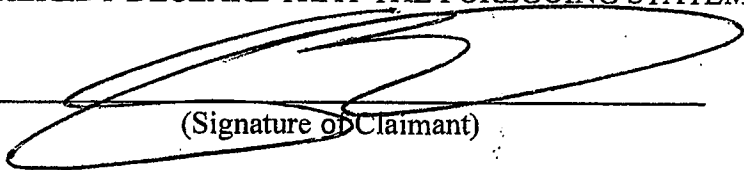
A. Did you file a claim with your insurance company? Yes

If yes, amount claimed \$ TBD Deductible amount \$ TBD

B. If a claim was filed with your insurance company, what action do they intend to take?

A claim was filed with the Lexington Insurance Company (Claimant) and the Claimant has retained Denenberg Tuffley, PLLC, to pursue a subrogation action for this loss.

I HEREBY DECLARE THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.



(Signature of Claimant)

4/29/15

(Date)



April 29, 2015

Via U.S. Mail

Office of the County Clerk
County Of Maui
200 South High Street, Room 708
Wailuku, Hawaii 96793

Re: Claim Against County of Maui
Lex Claim No.: 501-157900-SUB-1 [9216632640US]
Date of Loss: 03/26/2015
Our File No.: 90002.2825

Dear Sir/Madam:

I have enclosed a signed copy of the "Claim for Damage or Injury" form relative to the above loss. The Claimant's property damage is approximately \$362,000.00 with a \$5,000.00 deductible. We are providing the loss amounts in this letter because the form would not allow us to properly enter the above numbers. Also, as stated in the form, the adjustment for this loss is not yet complete, therefore proofs for this loss will be forthcoming.

Thank you for your attention in this regards. If you should have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

DENENBERG TUFFLEY, PLLC

Corey H. Chubner

Corey H. Chubner

CHC/jaw

Michigan Office

One Northwestern Plaza
28411 Northwestern Hwy, Suite 600
Southfield, MI 48034

T: 248.549.3900 / F: 248.593.5808

California Office

Constellation Place
10250 Constellation Blvd., Suite 2320
Los Angeles, CA 90067

T: 310.356.4683 / F: 310.284.9089

www.denenbergtuffley.com