

COUNCIL OF THE COUNTY OF MAUI

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

August 24, 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 July 24, 2018, makes reference to County Communication 15-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated January 26, 2016, the Department of the Corporation Counsel requested consideration of the possible settlement of Spirit of Aloha Temple, et al. v. County of Maui, et al., Civil CV 14-00535 SOM-RLP. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF SPIRIT OF ALOHA TEMPLE, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. CV 14-00535 SOM-RLP," and a copy of the Complaint and Errata to the Complaint. The purpose of the proposed resolution is to authorize the Department to settle the case.

Your Committee notes the Complaint alleges discriminatory and unreasonable land use regulations and intentional conduct, including the denial of a State Special Use Permit, prohibited the Spirit of Aloha Temple, located at 800 Haumana Road, Haiku, Maui, Hawaii, from conducting religious services and activities in the exercise of its religious beliefs. The Complaint further alleges these actions were in violation of the Religious Land Use and Institutionalized Persons Act of 2000, the Hawaii State Constitution, and the First and Fourteenth Amendments of the United States Constitution.

By correspondence dated June 26, 2018, the Department transmitted a revised proposed resolution entitled "AUTHORIZING SETTLEMENT OF SPIRIT OF ALOHA TEMPLE, ET. AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. CV 14-00535 SOM-RLP."

COUNCIL OF THE COUNTY OF MAUI

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

Page 2

**Committee
Report No. _____**

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of \$7,500.

A Deputy Corporation Counsel provided an overview of the case. He said the case is set for trial on September 25, 2018. However, the Federal Court judge recently said the Plaintiffs and their lawyers need to place the State Attorney General on notice that they are claiming a State statute is unconstitutional and, therefore, it is unlikely the trial will proceed as scheduled. The Deputy said the parties have been in settlement negotiations. 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, your Committee voted 9-0 to recommend filing of the correspondence dated January 26, 2016. Committee Chair Guzman, Vice-Chair King, and members Atay, Carroll, Cochran, Crivello, Hokama, Sugimura, and White voted "aye."

Your Committee notes filing of the correspondence does not resolve the ongoing case, but merely disposes of the matter pending before your Committee.

Your Parks, Recreation, Energy, and Legal Affairs Committee **RECOMMENDS** that the correspondence dated January 26, 2016, transmitting a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF SPIRIT OF ALOHA TEMPLE, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. CV 14-00535 SOM-RLP," be FILED.

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

Page 3

**Committee
Report No.** _____

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



DON S. GUZMAN, Chair

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