

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 15, 2016

Committee
Report No. _____

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

Chair and Members:

Your Committee of the Whole, having met on April 1, 2016, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated March 17, 2016, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim 30153921887-0001 of Merlino Fetalvero. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30153921887-0001 OF MERLINO FETALVERO," and a copy of the claim.

The claim alleges damages to Merlino Fetalvero's property at 103 Akai Street, Kihei, Maui, Hawaii, resulting from a sewage overflow into the home on or about November 17, 2014. The purpose of the proposed resolution is to authorize settlement of the case.

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

A Deputy Corporation Counsel provided a brief overview of the case. She noted raw sewage entered Mr. Fetalvero's home as a result of the overflow, and the County took immediate measures to clean the home and remediate the damage.

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.

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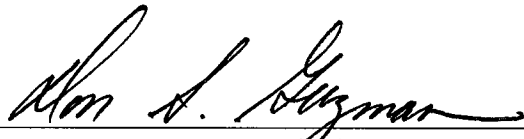
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Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 5-0 to recommend adoption of the proposed resolution. Committee Chair Guzman and members Carroll, Cochran, Couch, and Hokama voted "aye." Committee Vice-Chair Crivello and members Baisa, Victorino, and White were excused.

Your Committee of the Whole **RECOMMENDS** that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30153921887-0001 OF MERLINO FETALVERO," be **ADOPTED**.

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



DON S. GUZMAN, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30153921887-0001 OF MERLINO FETALVERO

WHEREAS, Merlino Fetalvero filed Claim No. 30153921887-0001 on June 26, 2015, against the County of Maui for damage to his property located at 103 Akai Street, Kihei, Maui, Hawaii, resulting from a sewage overflow on November 17, 2014; and

WHEREAS, the County of Maui and Merlino Fetalvero, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a proposed 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 set forth in an executive meeting before the Committee of the Whole; 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 authorize settlement; now, therefore,

Resolution No. _____

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

1. That it hereby approves settlement of this claim under the terms set forth in an executive meeting before the Committee of the Whole; and
2. That payment is authorized to satisfy settlement of this claim following the execution of the Release of Claim by Merlino Fetalvero; and
3. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Environmental Management, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

RISK - 2015-0248