

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

June 1, 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 February 14, 2017, January 30, 2018, and May 15, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated February 7, 2017, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim 30153618793-0001 by Lehuamakanoe Verkerke. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30153618793-0001 BY LEHUAMAKANOE VERKERKE," and a copy of the claim. The purpose of the proposed resolution is to authorize the Department to settle the claim.

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.

Your Committee further notes Ms. Verkerke's claim against the County was filed on March 9, 2015, for damages to her property at 73 Ili Kupono Street, Wailuku, Maui, Hawaii, caused by roots of a tree on County property which infiltrated her back yard.

A Deputy Corporation Counsel advised your Committee Ms. Verkerke had transmitted another settlement demand. The Deputy requested an opportunity to convey the settlement demand in an executive meeting.

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

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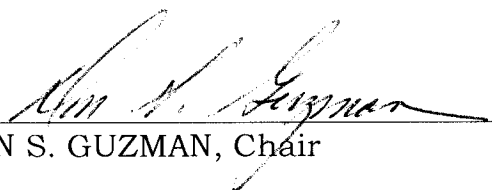
**Committee
Report No.** _____

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

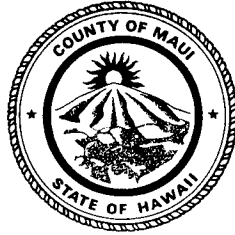
Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that the correspondence dated February 7, 2017, transmitting a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30153618793-0001 BY LEHUAMAKANOE VERKERKE," attached hereto, be FILED.

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



DON S. GUZMAN, Chair

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

2017 FEB -7 PM 4: 02
OFFICE OF THE
COUNTY COUNCIL

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: Lehuamakanoe Verkerke
Claim No.: 30153618793-0001

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 Parks and Recreation be in attendance during discussion of this matter. If you have any questions, or concerns, please do not hesitate to contact me.

cc: Butch Ka'ala Buenconsejo, Director
Department of Parks and Recreation

MML:cs

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30153618793-0001
BY LEHUAMAKANOE VERKERKE

WHEREAS, Lehuamakanoe Verkerke filed Claim No. 30153618793-0001 on March 9, 2015, against the County of Maui for damages to her property located at 73 Ili Kupono Street, Wailuku, Maui, Hawaii, resulting from tree root damage; and

WHEREAS, the County of Maui and Lehuamakanoe Verkerke, 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 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 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 a settlement offer; now, therefore,

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

1. That it hereby approves settlement of Claim No. 30153618793-0001 under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

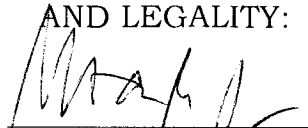
Resolution No. _____

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 Department of Public Works, and the Corporation Counsel.

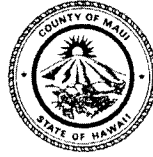
APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

RISK 2015-0143

DANNY A. MATEO
County Clerk



RECEIVED JOSIAH K. NISHITA
CORPORATION COUNSEL Deputy County Clerk

2015 MAR -9 PM 4: 05

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

LT 17 3-10-15
J Remond 3-10-
to ML 3-10-

March 9, 2015

Notice of 1st Rep of
rcid 3-9-15

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 Lehuamakanoe Verkerke, of 73 Ili Kupono Street, Wailuku, which was
received by our office on March 9, 2015.

Respectfully,

DANNY A. MATEO
County Clerk

Attachment

cc: Mayor
✓ Corporation Counsel
Council Chair

/lks

RECEIVED
2015 MAR -9 PM 4: 32
CORPORATION COUNSEL

COUNTY OF MAUI
CLAIM FOR DAMAGE OR INJURY

RECEIVED
2015 MAR -9 AM 11:01
OFFICE OF THE
COUNTY CLERK

PLEASE PRINT CLEARLY

1. Claimant: Mr. Mrs. Ms. Lehuamalame Verter
2. Address: 73 Iii KUPONO Street
3. Telephone No.: Business _____ Residence 201 5059
4. Date of Accident: JANUARY 2014 - present
5. Location of Accident: Backyard of house
6. Amount of Claim: Property Damage \$ estimates coming Personal Injury \$ _____

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.

There is a tree on county property on Waiko Road whose roots have infiltrated my backyard. I contacted David Sakoda, the county's arborist, over a year ago to explain how the tree's huge roots were beginning to push up concrete back patio. Nothing was done even after various follow up calls. Now, a year later, the tree's roots have pushed up and cracked a rock →

8. If you carry insurance applicable to this claim, please provide the name and address of the insurance company and your policy number.

_____ Policy No. _____

A. Did you file a claim with your insurance company? NO
If yes, amount claimed \$ _____ Deductible amount \$ _____

B. If a claim was filed with your insurance company, what action do they intend to take?
HOME OWNER'S INSURANCE DOES NOT COVER UNDERGROUND / GROUND MOVEMENT DAMAGE. THEY SAID IT IS THE RESPONSIBILITY OF THE TREE OWNER.

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

Lehuamalame Verter
(Signature of Claimant)

3/9/15
(Date)

wall in my backyard that is about a foot wide by a foot and a half tall, breaking it. Also the concrete patio as been pushed up in the middle which has caused it to crack in all four directions. The concern is that these roots are penetrating under the foundation of the house causing very serious damage.

I do not have estimates yet for damage as it is geotechnical engineers who are needed to survey damage and all I have found are located on Oahu. Before I do that I would like reassurance that I would get reimbursed for that and root removal.