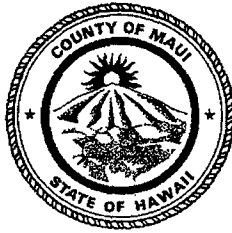


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October 11, 2018

MEMO TO: Donald S. Guzman, Chairman  
Parks, Recreation, Energy and Legal Affairs Committee

FROM: Brian A. Bilberry  
Deputy Corporation Counsel

SUBJECT: LITIGATION MATTER – Case Status (PRL-1(2))  
*Ocean Resort Villas Vacation Owners Association, et al. v. County of Maui, et al.*,  
Civil No. 13-1-0848(2)

Our Department respectfully requests the opportunity to present an updated status report and information to the Parks, Recreation, Energy, and Legal Affairs Committee, to discuss settlement options with regard to the above-referenced lawsuit, and to further discuss our Department's intention to appeal this case to the Intermediate Court of Appeals and/or the Supreme Court of the State of Hawai'i. We would like this matter heard at the November 13, 2018 committee meeting.

I have attached a Resolution authorizing settlement. It is anticipated that an executive session will be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your anticipated assistance in this matter.

Attachment

# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF OCEAN RESORT  
VILLAS VACATION OWNERS ASSOCIATION, ET AL. V.  
COUNTY OF MAUI, ET AL., CIVIL NO. 13-1-0848(2)

WHEREAS, Plaintiffs Ocean Resort Villas Vacation Owners Association, et al. filed a lawsuit in the Circuit Court of the Second Circuit, State of Hawaii, against the County of Maui and Maui County Council (“County”) on August 19, 2013, asserting claims based on constitutional violations and Sunshine Law violations, among other claims, and seeking real property tax refunds arising out of the County’s establishment in 2004 of the “Timeshare” real property tax classification and subsequent annual real property tax rates; and

WHEREAS, the County of Maui, 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 case by way of a negotiated settlement or Offer of Judgment; 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 case and being advised of attempts to reach resolution of this case by way of a

negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize settlement; now, therefore,

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

1. That it hereby approves settlement of this case 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 Finance 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 Council Services, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
BRIAN A. BILBERRY  
Deputy Corporation Counsel  
County of Maui