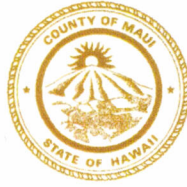


MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Corporation Counsel

RICHELLE M. THOMSON
First Deputy

LYDIA A. TODA
Risk Management Officer



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

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June 19, 2020

MEMO TO: Mike Molina, Chair
Governance, Ethics, and Transparency Committee

FROM: Brian A. Bilberry, Deputy Corporation Counsel

A handwritten signature in black ink, appearing to be "BA Bilberry".

SUBJECT: Litigation Matter – Case Status GET-11(35)
County of Maui v. Rick Markham, et al.; Civil No. 17-1-0384(2)

Our Department is requesting to update the Committee on this concluded litigation and discuss settlement options. We would like this matter heard at the currently scheduled June 23, 2020 committee meeting.

An executive session will be necessary for this matter.

Should you have any questions or concerns, please do not hesitate to contact us.

cc: Michele McLean, Director, Department of Planning

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
COUNTY OF MAUI V. RICK MARKHAM, ET AL.,
CIVIL NO. 17-1-0384 (2)

WHEREAS, the COUNTY OF MAUI filed a lawsuit in the Second Circuit in the State of Hawaii on September 11, 2017, Case No. 17-1-0384 (2), against Rick Markham, North Shore Maui, LLC, et al., claiming zoning code violations of his property located at 115 Hana Highway, Paia, Maui, Hawaii; 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 Governance, Ethics, and Transparency Committee on June 23, 2020; and

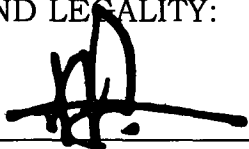
WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

Resolution No. _____

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 Governance, Ethics, and Transparency Committee on June 23, 2020; and
2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case; and
3. That it hereby authorizes the Director of Finance to satisfy said settlement of this case; and
4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Planning Director, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



BRIAN A. BILBERRY
Deputy Corporation Counsel
County of Maui
Lit 5729