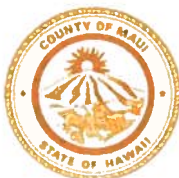


RICHARD T. BISSEN
Mayor

VICTORIA J. TAKAYESU
Corporation Counsel

SONYA TOMA
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



April 6, 2023

Via email only at county.clerk@mauicounty.us

Honorable Alice L. Lee, Chair
and Members of the Council
County of Maui
Wailuku, Hawaii 96793

SUBJECT: AUTHORIZING SETTLEMENT OF CLAIM NO. 4077284
OF RONALD BROWNING

Dear Chair Lee and Council Members:

Please find attached separately a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 4077284 OF RONALD BROWNING." The purpose of the proposed resolution is settlement of a general liability claim.

I request that the proposed resolution be scheduled for discussion and action or referral to the appropriate standing committee as soon as possible. I have also attached the claim and supporting documents. An executive session may be necessary to discuss issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and/or the Committee.

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

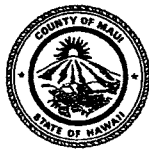
Sincerely,

A handwritten signature in black ink, appearing to read "B. Sova".

Bradley J. Sova
Deputy Corporation Counsel

cc: Jordan Molina Director, Department of Public Works
Attachments

KATHY L. KAOHU
County Clerk



JAMES G.M. KRUEGER
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

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

June 9, 2022

John Mullen & Company, Inc. (JMC)
Via email: claims@johnmullen.com

Attn: Unit Code 99

Respectfully transmitted is a copy of a claim against the County of Maui filed by Ronald L. Browning, of 3770 Kula Highway, Kula, which was received by our office on June 8, 2022.

Respectfully,

A handwritten signature in black ink that reads "Kathy L. KaoHu". The signature is written in a cursive style.

KATHY L. KAOHU
County Clerk

Attachment

cc: Mayor
Corporation Counsel
Council Chair

/djy

COUNTY OF MAUI
CLAIM FOR DAMAGE OR INJURY

RECEIVED
2022 JUN -8 PM 4:13

PLEASE PRINT CLEARLY

1. Claimant: Mr. Mrs. Ms. Ronald L. Browning
2. Address: 3770 Kula Highway Kula, HI. 96790
3. Telephone No. (808)281-9572 Email: rbrowning@hawaii.rr.com
4. Date of Accident: December 5-6, 2021
5. Location of Accident: 3770 Kula Highway, Kula, Hawaii 96790
6. Amount of Claim: Property Damage \$ > 22,695 Personal Injury \$ 0
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. Attach additional sheets as needed.
See attached.

8. If you carry insurance applicable to this claim, please provide the name and address of the insurance company and your policy number.
State Farm Homeowner's Insurance

Policy No. 51-12-6733-5
A. Did you file a claim with your insurance company? yes
If yes, amount claimed \$ N/A Deductible amount \$ 500

B. If a claim was filed with your insurance company, what action do they intend to take?
Claim was denied due to no flood insurance.

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

Ronald L. Browning
(Signature of Claimant)

June 5, 2022
(Date)

Claim for Damages

Background:

Our home is located makai of Kula Highway, approximately 100-200 yards Kahului side of the intersection of Lower Kula Road and Kula Highway, which is Keokea side of Ke Street. Kapapa gulch runs mauka to makai, adjacent to our property. We have lived on this property since approximately 1965. At the aforementioned intersection of Lower Kula Road and Kula Highway, there are two culverts which allow water to drain through Kapapa Gulch. The first culvert passes under Lower Kula Road, and the second passes under Kula Highway. During the time we have lived here, there have been many, many "Kona storms", none of which has impacted us, as the water always flowed through the culverts and down the gulch, as designed.

The Incident:

On December 5, 2021, Maui was hit by a "Kona Low" storm. Our electricity went out at about 7:00 p.m. At around 8:00 p.m., we began to see water seeping into our home. We spent the next several hours battling the water in order to minimize our damages. All rooms of the house were affected, all rugs and most of our towels and curtains were ruined. Eventually, the flow of water abated, and we were able to somewhat control the situation in the house.

The following morning, we awoke to find that our home was surrounded on three sides by mud (8 - 24 inches deep) and debris. The driveway was blocked, and the yard was also full of mud and debris. We later found that the first culvert passing under Lower Kula Road was blocked, causing the water, mud and debris to flow onto the highway (it even took out the guardrail) instead of through the culverts and down the gulch. It then flowed down the highway (toward Kahului), and then down our driveway, which is the first driveway Kahului side of the intersection. At some point, road crews cleared the mud and debris from Kula Highway, pushing it to

the makai side of the Highway, further blocking any water/mud from draining off the Highway into the gulch, and funneling everything down the Highway and, ultimately, down our driveway and into our home.

Needless to say, the next several days were hectic. We, along with family members and friends, worked endlessly to shovel mud, move debris, and clean the mud and water from inside the house. Ultimately, we had to pay to have heavy equipment haul away the mud, as well as have our floors replaced, some areas of drywall replaced, and the interior repainted. We did as much of the work ourselves as we could, in order to minimize the cost, and are not seeking any damages for the work we did, nor for the stress, frustration, and emotional toll that this took on our entire family. It was over a month before we were finally able to resume living normally in our house. We are also not seeking damages for replacement of rugs, towels, curtains, or other smaller items. Rather, we are seeking damages for out-of-pocket expenses.

Damages:

- Flooring: \$3,135.40
- Contractor to take out wall and replace flooring: \$6,339
- Front Door (had to be replaced): \$852.05
- Disinfecting spray (to kill mold that was growing in the walls): \$50
- Painter & Paint: \$4,791.64
- Other Paint: \$427.33
- Drywall Replacement/Repair: \$2,800
- Removal of Mud/Debris: \$1,100
- Pending: Redoing landscaping that was changed by the mud/debris, so that water will not flow into the house (estimated at >\$3200).

- Total: >\$22,695.42

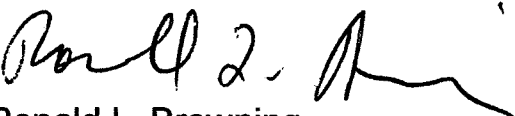
Because we do not live in an area prone to flooding, we had no flood insurance. In order to cover these costs, I had to take out a loan against

my retirement. By the time loans through federal programs were available, it was too late; the work had already been done and paid for.

Why the County is liable:

Unlike others who were impacted by the storm, we were not subjected to overflow from the gulch—once the culvert was cleared, the gulch flowed fine, and we do not live close enough to the gulch to have been impacted even if it had overflowed. Rather, our damages were a direct result of the failure of the County to ensure that the culvert running under Lower Kula Road was clear and could accommodate the storm, which we all knew was coming. It is the County's responsibility to inspect and maintain the culvert, and failure to do so was the direct cause of our damages. The County failed to protect us from a very foreseeable risk of harm, and bears responsibility for these damages.

Thank you for your time and attention to this matter. I look forward to your response, and an amicable resolution to our claim.


Ronald L. Browning

RECEIPT MUST BE PAID IN ADVANCE

Date 12-10-21 19 6805

Received From Terry Browning
eleven hundred ————— Dollars \$ 1100.00

~~FOR~~ Flood damage - Labor and equipment

FROM

HOW PAID

CASH

CHQ

MONEY
ORDER

To

Clayton S. Brown
By



Cleaners Warehouse

285 Hukilike Street
STE 8101

Kahului, HI 96732

Thursday, December 30, 2021 3:00 PM

POS Sales ID: 5782

Location: Kahului

Created Date: 12/30/2021 3:00 PM



Billing Address	Contact	Shipping Address
Cleaners Warehouse Cash Sale 285 Hukilike St. Kahului, HI 96732	Name: Phone: Ext. Email:	

Product	Description	Quantity	Trans	Taxable	Unit Price	Extension
Product	HF Biosque Botanical Gal	4.00	Sale	Yes	\$44.64	\$178.56
Product	CH Sprayer 48 oz Multi-Purpose	1.00	Size	Yes	\$22.00	\$22.00

Disinfectant to kill mold in walls. Purchased 4 gals, returned 3 gal.
Total spent: 69.02

Total Service:	\$0.00
Total Product:	\$200.56
Total Assets Sold:	\$0.00
Sub Total:	\$200.56
Sales Tax:	\$9.99
Total:	\$208.55 USD
Paid: Credit Card	\$208.55



Cleaners Warehouse

285 Hukilike Street
STE 8101

Kahului, HI 96732

Monday, January 04, 2022 2:53 PM

POS Sales ID: 5782
Location: Kahului
Created Date: 01/04/2022 2:53 PM

Billing Address	Contact	Shipping Address
Cleaners Warehouse Cash Sale 285 Hukilike St. Kahului, HI 96732	Name: Phone: Ext. Email:	

Type	Description	Quantity	Trans	Taxable	Unit Price	Extension
Product	Biosque Botanical	3.00	Credit	Yes	\$44.64	\$133.92

Total Service:	\$0.00
Total Product:	\$133.92
Total Assets Sold:	\$0.00
Sub Total:	\$133.92
Sales Tax:	\$9.99
Total:	\$139.91 USD
Paid: Credit Card	\$139.91

Haleakala Handyman
 PO BOX 707
 Haiku, HI 96708
 (808)269-5894
 HaleakalaHandyman@gmail.com

Painter



INVOICE

BILL TO
 Ron Browning
 3770 Kula Hwy
 Kula, 96790

INVOICE # 1243
DATE 01/22/2022
DUE DATE 01/22/2022

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
01/22/2022	interior Paint job	2bdrm 1 ba	1	4,600.00	4,600.00

SUBTOTAL	4,600.00
TAX	0.00
TOTAL	4,600.00
BALANCE DUE	\$4,600.00

*Added 191.64
 to pay for paint purchased
 by painter*

*4791.04 Total
 Paid
 Periode*

Credit Card Receipt for paint purchased by me

ACCOUNT SUMMARY

Sale Date	Post Date	Description	Amount
Payments, Credits and Adjustments			
	02/05	ONLINE PAYMENT, THANK YOU	-5,609.78
01/24	01/24	CLEANERS WAREHOUSE, INC KAHULUI HI	509.50

Costco Cash Rewards Summary

Costco Cash Rewards balance as of last statement	+522.71
Earned this period	+526.13

Total Costco Cash Rewards Balance Year To Date: \$48.84

Paint

RONALD L BROWNING
 Standard Purchases

01/22	01/22	HALEAKALA HANDYMAN	4,600.00
01/22	01/22	SWERIN WILLIAMS 708043 KAHULUI HI	5427.88
01/22	01/22	WAL MART	200.00
01/22	01/22	WAL MART	200.00
01/22	01/22	WAL MART	200.00
01/22	01/22	WAL MART	200.00
01/22	01/22	WAL MART	200.00

DELIA O BROWNING

Costco Cash Rewards
 Earned This Period

2% on eligible purchases worldwide, including

440802



How doers get more done.

THE HOME DEPOT
 14800 WOODBRIDGE BLVD
 WOODBRIDGE, VA 22192
 TEL: (703) 422-1000
 FAX: (703) 422-1001
 WWW.HOMEDEPOT.COM
 SALES TAX: 5.75%
 TOTAL: \$3,718.73
 AMOUNT PAID: \$0.00
 AMOUNT DUE: \$3,718.73
 AUTHORIZED CUSTOMER ONLY
 64 HARTMAN RD
 HARTMAN, MD
 10000
 410-444-4444
 MID-STAR 5000 TELEPHONE
 MID-STAR 5000 TELEPHONE
 MID-STAR 5000 TELEPHONE

Home Depot
Purchased flooring for
3,718.73

Returned Unused Flooring
for 583.33



How doers get more done.

THE HOME DEPOT
 14800 WOODBRIDGE BLVD
 WOODBRIDGE, VA 22192
 TEL: (703) 422-1000
 FAX: (703) 422-1001
 WWW.HOMEDEPOT.COM
 SALES TAX: 5.75%
 TOTAL: \$3,135.40
 AMOUNT PAID: \$0.00
 AMOUNT DUE: \$3,135.40
 AUTHORIZED CUSTOMER ONLY
 64 HARTMAN RD
 HARTMAN, MD
 10000
 410-444-4444
 MID-STAR 5000 TELEPHONE
 MID-STAR 5000 TELEPHONE
 MID-STAR 5000 TELEPHONE

Total for flooring
3,135.40



SPECIAL SERVICES CUSTOMER INVOICE

Store 1703 MAUI
100 PAKAULA STREET
KAHULUI, HI 96732

Phone: (808) 893-7800
Salesperson: JXG5836
Reviewer: JXG5836

NAME **BROWNING RONALD** **PHONE** **(808) 281-9572**

ADDRESS **3770 KULA HWY** **PHONE** **(808) 344-0632**

CITY **KULA** **DESCRIPTION** **patio door**

STATE **HI** **ZIP** **96730** **COUNTY** **MAUI**

REPRINT

2022-01-17 09:41

CUSTOMER PICKUP #1

MERCHANDISE AND SERVICE SUMMARY

REF # W02 SKU # 0000-515-864 Customer Pickup / Will Call

We reserve the right to limit the quantities of merchandise sold to customers

STOCK MERCHANDISE TO BE PICKED UP:

REF #	SKU	QTY	UM	DESCRIPTION	PI	TAX	PRICE EACH	EXTENSION
R01	0000-299-586	1.00	L.A.	72X80 RHIS FLT FULL LITE MINI BM /	A	Y	\$818.00	\$818.00
MERCHANDISE TOTAL								\$818.00
END OF CUSTOMER PICKUP - REF #W02								

TOTAL CHARGES OF ALL MERCHANDISE & SERVICES

Policy Id (PI):

A: 90 DAYS DEFAULT POLICY;

The Home Depot reserves the right to limit / deny returns. Please see the return policy sign in stores for details.

ORDER TOTAL	\$818.00
SALES TAX	\$34.08
TOTAL	\$852.08
BALANCE DUE	\$0.00

END OF ORDER No. H1703-301334

FRONT DOOR

WILL-CALL MERCHANDISE PICK-UP

Will-Call items will be held in the store for 7 days only.

Check your current order status online at
www.homedepot.com/orderstatus

FOR WILL CALL
MERCHANDISE PICK-UP
PROCEED TO WILL CALL OR
SERVICE DESK AREA
(Pro Customers, Proceed To The Pro Desk)

Rick Hartman - Contractor

Drywall work & clean up 650.-
 (10 hrs)
 Entry door \$260.-
 (4 hrs)
 Flooring 960 @ 2.4.- \$3840.-

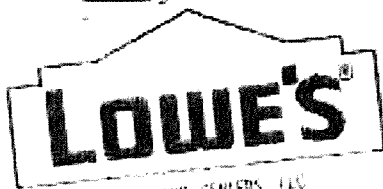
Misc Attached Receipts

\$148.08
 \$200.92

OK \$ Caswell \$110.-

~~Baseboards~~ - 16 hrs @ \$65.- = \$1040.-

\$6,339.-



LOWE'S HOME CENTERS, LLC
 214 WYNDALE STREET
 FARMINGTON, CT 06030 TEL: 860-672-1500

SALE

SALE A - 10% OFF ALL FINISH MATERIALS, EXCEPT 10% OFF

ALUMINUM HANGERS 1/2" X 1/2" X 1/2" X 1/2"	1.75
17.04 DISCOUNT TOTAL	0.04
13.9	10.18
TOTAL ONE HOUR 85% OFF DISCOUNT	90.90
5.11 DISCOUNT TOTAL	0.75
12	2.75
10.18	3.75
10.18	0.12
10.18	0.01
10.18	0.00
279.29	
11.00	
290.29	
210.90	

2/05



LOWE'S HOME CENTERS, LLC
 214 WYNDALE STREET
 FARMINGTON, CT 06030 TEL: 860-672-1500

SALE

SALE A - 10% OFF ALL FINISH MATERIALS, EXCEPT 10% OFF

10.18	10.18
10.18	1.20
10.18	24.30
10.18	18.00
10.18	6.14
10.18	47.00
10.18	5.92
10.18	30.00
10.18	145.00

31 Kaula Dr
 Makawao, HI 96768
 831-682-5289 - Leanne
 831-682-5270 - Ren

job site

Invoice

SOLD TO Rick Hartman		BOUGHT BY Ren Browning	
ADDRESS jurstone@mac.com		ADDRESS 3770 Kula Hwy.	
CITY, STATE, ZIP 808-281-9054		CITY, STATE, ZIP Kula, HI 96790	
CUSTOMER ORDER NO.	SOLD BY	TERMS	F.O.B.
			DATE 1/17/22

1/9-17/22	Repaired drywall damaged in various rooms due to flood/mud slide. (2' up from floors)			
	<u>Materials</u>			
	1/10/22 - laves - \$191.25			
	1/12/22 - miyake - 28.74			
	Total labor & materials		\$2800	00
1/17/22	Received check #6540		- 2800	00
				00
-PAID IN FULL-				



John Mullen & Company

677 Ala Moana Blvd. Suite #910, Honolulu, HI 96813
Main Office: (808) 531-9733 | Fax: (808) 531-0053

Insured: County of Maui-MMS Browning
Property: 3770 Kula Hwy
Kula, HI 96790

Estimator: John Mullen

Claim Number: 4077284

Policy Number:

Type of Loss: Water Damage

Date Contacted: 6/9/2022 12:00 AM

Date of Loss: 12/5/2021 12:00 AM

Date Received: 6/9/2022 12:00 AM

Date Inspected:

Date Entered: 2/27/2023 4:30 PM

Price List: HIWA8X_FEB23

Restoration/Service/Remodel

Estimate: 4077284

This is an estimate only and is intended to be a guide in the review of the insurance claim. We reserve the right to make adjustments to this estimate as additional information becomes available. This estimate reflects the actual cash value of the repairs. The actual cash value reflects a deduction for depreciation based on the age and condition of the items being replaced. If your policy provides Replacement Cost coverage, this coverage provides payment of the actual, necessary costs of making repairs to your property without any deduction for depreciation. Before replacement benefits may be claimed, your policy requires that repairs be completed, or that an agreed price is reached with your contractor. The additional amount which may be claimed is limited to the smaller of the amount of depreciation or that portion of the depreciation actually spent for repairs. This is not an authorization to repair. This is not an interpretation of what is covered. Only your insurance company can make that decision.

“FOR YOUR PROTECTION, HAWAII LAW REQUIRES YOU TO BE INFORMED THAT PRESENTING A FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT IS A CRIME PUNISHABLE BY FINES OR IMPRISONMENT, OR BOTH.” HI STAT. Â§431:10C-307.7

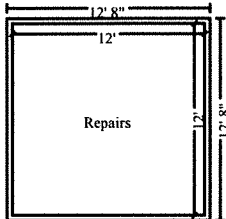


John Mullen & Company

677 Ala Moana Blvd. Suite #910, Honolulu, HI 96813
 Main Office: (808) 531-9733 | Fax: (808) 531-0053

4077284

Main Level



Repairs

Height: 8'

384.00 SF Walls	144.00 SF Ceiling
528.00 SF Walls & Ceiling	144.00 SF Floor
16.00 SY Flooring	48.00 LF Floor Perimeter
48.00 LF Ceil. Perimeter	

	QUANTITY	UNIT	TAX	RCV	AGE/LIFE	COND.	DEP %	DEPREC.	ACV	
1. DRYWALL: Ronald Johnson (Labor)*										
	1.00	EA	2,580.01	0.00	2,580.01	0/NA	Avg.	0%	(0.00)	2,580.01
2. DRYWALL: Material Costs*										
	1.00	EA	219.99	0.00	219.99	0/NA	Avg.	10% [%]	<22.00>	197.99
3. CLEANING (Supplies-Cleaners Warehouse)*										
	1.00	EA	69.02	0.00	69.02	0/NA	Avg.	0%	(0.00)	69.02
4. DOOR: Home Depot (Front)*										
	1.00	EA	852.08	0.00	852.08	0/NA	Avg.	15% [%]	<127.81>	724.27
5. PAINTING: Haleakala Handyman (Labor)*										
	1.00	EA	4,600.00	0.00	4,600.00	0/NA	Avg.	0%	(0.00)	4,600.00
6. PAINTING: Haleakala Handyman (Materials)*										
	1.00	EA	191.64	0.00	191.64	0/NA	Avg.	30% [%]	<57.49>	134.15
7. FLOOR COVERING - WOOD (Material)*										
	1.00	EA	3,135.40	0.00	3,135.40	0/NA	Avg.	22% [%]	<689.79>	2,445.61
8. FINISH CARPENTRY / TRIMWORK (Materials)*										
	1.00	EA	549.00	0.00	549.00	0/NA	Avg.	15% [%]	<82.35>	466.65
9. Rick Hartman GC: (Labor)*										
	1.00	EA	5,790.00	0.00	5,790.00	0/NA	Avg.	0%	(0.00)	5,790.00
10. C. Tavares: (Floor Labor)*										
	1.00	EA	1,100.00	0.00	1,100.00	0/NA	Avg.	0%	(0.00)	1,100.00
Totals: Repairs				0.00	19,087.14			979.44	18,107.70	
Total: Main Level				0.00	19,087.14			979.44	18,107.70	
Line Item Totals: 4077284				0.00	19,087.14			979.44	18,107.70	

[%] - Indicates that depreciate by percent was used for this item

[M] - Indicates that the depreciation percentage was limited by the maximum allowable depreciation for this item



John Mullen & Company

677 Ala Moana Blvd. Suite #910, Honolulu, HI 96813
Main Office: (808) 531-9733 | Fax: (808) 531-0053

Grand Total Areas:

384.00 SF Walls	144.00 SF Ceiling	528.00 SF Walls and Ceiling
144.00 SF Floor	16.00 SY Flooring	48.00 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	48.00 LF Ceil. Perimeter
144.00 Floor Area	160.44 Total Area	384.00 Interior Wall Area
456.00 Exterior Wall Area	50.67 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	



John Mullen & Company

677 Ala Moana Blvd. Suite #910, Honolulu, HI 96813
Main Office: (808) 531-9733 | Fax: (808) 531-0053

Summary for Dwelling

Line Item Total	19,087.14
Replacement Cost Value	\$19,087.14
Less Non-recoverable Depreciation	<979.44>
Actual Cash Value	\$18,107.70
Net Claim	\$18,107.70

John Mullen