

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

August 24, 2021

**Committee
Report No.** _____

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

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on March 2, 2021, March 9, 2021 (reconvened), and August 3, 2021, makes reference to the following:

1. County Communication 19-107, from Councilmember Michael J. Molina, relating to the United States Federal Reserve System's order requiring Bank of America ("BoA") to provide mortgages on Hawaiian Home Lands.
2. County Communication 19-108, from Presiding Officer Pro Tempore Tasha Kama, relating to BoA's \$150,000,000 loan commitment for native Hawaiians on Hawaiian Home Lands.
3. County Communication 19-337, from Presiding Officer Pro Tempore Tasha Kama, transmitting a proposed resolution to authorize the employment of special counsel to investigate and litigate actionable claims against BoA and the banking and mortgage industry.
4. County Communication 19-338, from Council Chair Kelly T. King, attaching copies of County Communication 19-107 from Councilmember Michael J. Molina, and County Communication 19-108 from Presiding Officer Pro Tempore Tasha Kama.

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5. Correspondence dated April 7, 2021, from the County Clerk, transmitting Government Relations, Ethics, and Transparency Committee Report 21-18, which was recommitted by the Council at its meeting of April 6, 2021.

Your Committee notes that the Council's Governance, Ethics, and Transparency Committee (2019-2021 Council term) met on August 6, 2019, September 17, 2019, June 2, 2020, June 16, 2020, December 1, 2020, and December 9, 2020.

Your Committee notes it previously reported on this matter through Committee Reports 19-117, 20-72, and 21-18. At its meeting of October 4, 2019, the Council adopted the recommendations in Committee Report 19-117 (Resolution 19-171). At its meeting of July 10, 2020, the Council adopted the recommendations in Committee Report 20-72 (Resolution 20-97). At its meeting of April 6, 2021, the Council recommitted Government Relations, Ethics, and Transparency Committee Report 21-18 for further discussion on the matter.

By correspondence dated July 28, 2021, the Chair of your Committee transmitted a proposed resolution entitled "URGING THE DEPARTMENT OF THE CORPORATION COUNSEL TO WORK WITH SPECIAL COUNSEL TO FILE LEGAL CLAIMS ON THE COUNTY'S BEHALF UNDER RESOLUTION 20-97."

The purpose of the proposed resolution is to urge the Department of the Corporation Counsel to work with special counsel Bronster Fujichaku Robbins, a Law Corporation, to file legal claims on the County's behalf under Resolution 20-97.

Your Committee notes Resolution 20-97 authorized the execution of a contract with special counsel Bronster Fujichaku Robbins for an amount not to exceed \$200,000.

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Your Committee further notes no legal claims have been filed on the County's behalf under Resolution 20-97, despite the County's legal success in Bank of America, N.A., v. County of Maui, et al.

The Corporation Counsel provided a status update of the potential claim.

A representative of special counsel Bronster Fujichaku Robbins also provided an update.

The Corporation Counsel requested an executive meeting to discuss confidential information related to the claim.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel in accordance with Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Your Committee agreed to amend the proposed resolution to urge the Department of the Corporation Counsel to consult with Na Po'e Kokua attorney Bruce Jacobs of Jacobs Legal, PLLC, as appropriate.

Based on the information received and the recommendation of your Committee, your Committee voted 7-0 to recommend adoption of the revised proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, King, Lee, Paltin, and Sinenci voted "aye." Committee members Kama and Sugimura were excused.

Your Committee is in receipt of a revised proposed resolution, incorporating your Committee's revision.

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Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution _____, attached hereto, entitled "URGING THE DEPARTMENT OF THE CORPORATION COUNSEL TO WORK WITH SPECIAL COUNSEL TO FILE LEGAL CLAIMS ON THE COUNTY'S BEHALF UNDER RESOLUTION 20-97," be ADOPTED.

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



MICHAEL J. MOLINA, Chair

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Resolution

No. _____

URGING THE DEPARTMENT OF THE CORPORATION
COUNSEL TO WORK WITH SPECIAL COUNSEL TO
FILE LEGAL CLAIMS ON THE COUNTY'S BEHALF
UNDER RESOLUTION 20-97

WHEREAS, on July 20, 2020, the Council adopted Resolution 20-97, authorizing the employment of special counsel Bronster Fujichaku Robbins, a Law Corporation, to represent the County in litigation matters against Bank of America and other mortgage lenders for failure to fulfill loan commitments, fraudulent foreclosures, and other similar unlawful conduct; and

WHEREAS, on December 28, 2020, in the case of Bank of America, N.A., v. County of Maui, et al., Civil 1:20-CV-00310 JMS WRP, filed in response to Resolution 20-97, the United States District Court for the District of Hawaii dismissed Bank of America's lawsuit seeking to prevent the County from filing legal claims; and

WHEREAS, no legal claims have been filed on the County's behalf under Resolution 20-97, more than a year after its adoption, despite the County's legal success in Bank of America, N.A., v. County of Maui, et al.; and

WHEREAS, the Council further urges the Department of the Corporation Counsel to consult with Na Po'e Kokua attorney Bruce Jacobs of Jacobs Legal, PLLC, as appropriate, with no additional compensation by the County; now, therefore,

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

1. That the Council urges the Department of the Corporation Counsel to work with special counsel Bronster Fujichaku Robbins, a Law Corporation, as well as counsel Bruce Jacobs of Jacobs Legal, PLLC, to file legal claims on the County's behalf under Resolution 20-97; and

Resolution No. _____

2. That certified copies of this Resolution be transmitted to the Mayor and the Corporation Counsel.

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