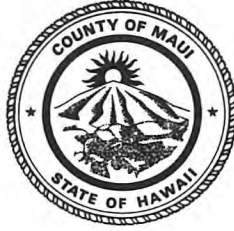


ALAN M. ARAKAWA
Mayor



PRL-1(41)

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

2018 JUL 16 PM 3:33
OFFICE OF THE
COUNTY COUNSEL

RECEIVED

July 16, 2018

MEMO TO: Don S. Guzman, Chair
Parks, Recreation, Energy, and Legal Affairs Committee

FROM: Moana M. Lutey, Deputy Corporation Counsel *ML*

SUBJECT: LITIGATION MATTERS - Settlement of Claims and Lawsuits
(PRL-1)

Settlement of Claim: Kihei Sands AOA
Claim No.: 30177587502-0001

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

cc: Gladys C. Baisa, Deputy Director,
Department of Water Supply

MML:cs

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30177587502-0001 OF ASSOCIATION OF APARTMENT OWNERS OF KIHEI SANDS

WHEREAS, the Association of Apartment Owners of Kihei Sands filed Claim No. 30177587502-0001, on March 23, 2017, against the County of Maui for property damage to the Kihei Sands Condominium resulting from a broken water pipe on March 26, 2015; and

WHEREAS, the Association of Apartment Owners of Kihei Sands has alleged that the County of Maui is liable for the damage caused to its property not covered by its insurer, Lexington Insurance Company; 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; 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 the settlement offer; now, therefore,

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

1. That it hereby approves settlement of Claim No. 30177587502-0001 by the Association of Apartment Owners of Kihei Sands in the amount of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000); and

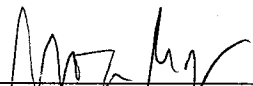
Resolution No. _____

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by the Association of Apartment Owners of Kihei Sands; and

3. That it hereby authorizes the Director of the 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 Water Supply, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui
RISK 2017-0244

DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
Deputy County Clerk

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

March 23, 2017

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 Ken Parsons on behalf of Kihei Sands, of 115 North Kihei Road, Kihei, which was received by our office on March 22, 2017.

Respectfully,

A handwritten signature in black ink, appearing to read "Danny A. Mateo", is written over a faint, larger version of the same signature.

DANNY A. MATEO
County Clerk

Attachment

cc: Mayor
Corporation Counsel
Council Chair

/lks

COUNTY OF MAUI

RECEIVED

CLAIM FOR DAMAGE OR INJURY

2017 MAR 22 PM 12:31

PLEASE PRINT CLEARLY

OFFICE OF THE COUNTY CLERK

- 1. Claimant: Mr. Mrs. Ms. Kihei Sands
- 2. Address: 115 N. Kihei Rd
- 3. Telephone No.: Personal 360-791-4433 Residence Business
- 4. Date of Accident: March 26, 2015 and August 4, 2015
- 5. Location of Accident: 115 N. Kihei Rd
- 6. Amount of Claim: Property Damage \$ 86,278.22 + collection costs 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.

Fire Hydrant supply water line burst - flooded 15 condos, office, laundry room, electrical room, and store room. County water lines have history of low maintenance and breaks. These costs were not covered by insurance. additional

See Attachment 5 and Exhibits A through V


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

See Letter from Insurance Company Attachment 4a, 4b, 4c Policy No. 41-LX-08647789

A. Did you file a claim with your insurance company? Yes
If yes, amount claimed \$ 420,440.55 Accepted Deductible amount \$ 5,000.00

B. If a claim was filed with your insurance company, what action do they intend to take?
They paid \$415,440.55. The items in this claim were not covered by the insurance.

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

 Parsons for Kihei Sands
(Signature of Claimant)
Ken F. Parsons

March 17, 2017
(Date)

Case Summary Report

Agency: MPD

Case Number: 15-012631

Date: 3/31/2015 15:17:16

Last Modified: 3/27/2015 10:06:45

Incident Information

Date/Time Reported	Date/Time Found	Date/Time Found	Officer
03/26/2015 09:13	03/26/2015 09:13	03/26/2015 09:13	(15363) AKAU, ADAM K
Incident Location			
115 N Kihei Rd, Kihei, HI 96753			
Location Comment: @KIHEI SANDS			

Charges

1	Charge Type	Description	Statute	UCR	<input type="checkbox"/> Alt
	State	PERSONAL ASSISTANCE	ASSIST	999	<input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used		Location Type	Premises Entered	Forced Entry	Weapons
<input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		HOTEL/MOTEL/ETC.		<input type="checkbox"/> Yes <input type="checkbox"/> No	1.
Entry	Exit	Criminal Activity			2.
					3.
Bias Motivation		Bias Target	Bias Circumstances		Hate Group

Victims

1	Type	Injuries	Residency Status		Ethnicity	
	BUSINESS	None				
Name (Last, First, M)			Race	Sex	DOB	Age
KIHEI SANDS						
Address					Home Phone	
115 N KIHEI RD, KIHEI, HI 96753						
Employer Name/Address			Occupation		Business Phone	
KARRIE LASATER /			PROPM		(808) 879-2624	
Victim of Crimes		Driver's License		SSN	Cellular Phone	
1						

Case Summary Report

Agency: MPD

Case Number: 15-012631

Date: 3/31/2015 15:17:16

Last Modified: 3/27/2015 10:06:45

Other Persons Involved

Name Code	Seq. #	Name (Last, First, M)	Race	Sex	DOB
Reporting Party	1	LASATER, KARRIE	W	F	
Address		SSN	Home Phone		
300 KAUKINI LOOP, WAIHEE, HI 96761					
Employer Name/Address		Occupation	Business Phone		
KIHEI SANDS / 115 NORTH KIHEI ROAD		GENERAL MANAGER	(808) 879-2624		
Insurance Company	Policy Number	Expiration Date	Driver's License	Cellular Phone	
			/	(808) 269-8487	

Synopsis

RP-1 requested Police assistance on behalf V-1 that a fire hydrant No. 272 was leaking water and flooding the parking lot at listed location. Upon Police arrival fire hydrant no.272 was observed with large amounts of water leaking from beneath. RP-1 related prior to Police arrival she contacted the Department of Water and that they were responding to fix the fire hydrant. V-1 further related the parking lot and all 15 units located down stairs had been flooded due to the leakage. V-1 satisfied with Police assistance. Report for records purposes.

KIHEI SANDS AOA DOL 3/26/15
RISK 2017-0244
CL#301775875020001

	Date	Description	Claimed \$	Verified	Comment
A	3/26/15	Insurance Deductible	\$5,000.00	\$5,000.00	
B	5/13/15	Sturdevant – Precision Tune-up and Professional Cleaning of HVAC	\$337.86	\$337.86 Check#6599	
	PARKING LOT				
C	6/16/15	Costco – Pressure Washer to remove mud	\$312.50	\$312.50 receipt	
D	6/16/15	Costco – cleaning supplies for parking lot Windex and simple green	\$22.47	\$22.47 Costco receipt	
E	6/16/15	Home Depot – Pump Protector for Pressure Washer and Hose	\$68.66	\$68.66 Home Depot Receipt	
F	8/24/15	Mainline Plumbing – Cleanout Drains Hydrojet high pressure parking lot drains	\$1,510.42	\$1,510.42 Check#6744	
G	9/25/15	Sonny Vick's – Asphalt Repair AC Repair at Drains Parking lot around drains –broken pavement	\$2,780.00	\$2,780.00 Check#6659	
H	9/29/15	Lowes – reseal and parking lot paint supplies	\$687.33	\$687.33 Receipt and Check#6648	
I	10/2/15	Thurgood – parking lot materials Lowes - Driveway crackfiller and resurfacer (\$213.41) Lowes – 3M Safe Release (\$19.67) Lowes – Driveway resurfacer and Traffic White (\$122.82)	\$355.90	\$355.90 Check #6649	
J	10/1/15	Thurgood – pressure wash seal stripe parking lot – labor	\$2,395.81	\$2,395.81 Check #6649	
K	11/14/16	Island Independence- Repair rock wall in front of hydrant	\$1,037.50	\$1,037.50 Check #6961	
L	12/1/15	Thurgood – repair front lawn with drainage berm by fire hydrant	\$1,041.66	\$1,041.66 Check#6696	

		TOTAL PARKING LOT	\$10,212.25	\$10,212.25	
	WALKWAYS				
M	7/8/15	Thurgood – Prep, clean and seal lanais	\$14,926.99 (higher of 3 estimates)	\$7,348.95 (lesser of 3 estimates)	
		TOTAL WALKWAYS	\$14,926.99	\$7,348.95	
	GROUNDS				
N	3/27/15	Lowes – 2 sump pumps	removed	removed	Claimed by Lexington
O	3/28/15	Lowes – Pool Filter band replacement	\$520.83	\$520.83 Check#6483	
P	3/31/15	Cultural Landscape Management - Pool wall repair/cleanup	removed	removed	Claimed by Lexington
Q	10/15/15	Cultural Landscape Management – Repair flood damaged irrigation (\$642.70) detaching lawn after flood (\$1,802.08)	\$2,444.78	\$2,444.78 Check#6662	
R	10/16/15	Cultural Landscape Management - repair beach planting	\$354.16	\$354.16 Check#6663	
S	11/11/15	Cultural Landscape Management - replace controller irrigation	\$177.08	\$177.08 Check#6675	
		Lowes – lava rock replacement material	\$275.00	\$7,812.53 (Lesser of 3 estimates)	Actual estimate from Cultural Landscape \$56,000.00
		Labor for lava rock	\$1,000.00		
T	8/16/16	David's Fencing	\$15,522.00	No proof of payment	Work not completed; Vericlim inspected – prior damage
		TOTAL GROUNDS:	\$20,293.85	\$11,309.38	
	LOST REVENUE				
U		Loss revenue – cancelled bookings	\$13,161.98	\$13,161.98	
		Reservation fees	\$1,560.00	\$1,560.00	
		Opportunity Loss	\$20,696.50	\$00.00	Speculative
		TOTAL LOST REV:	\$35,418.48	\$14,721.98	
		TOTAL:	\$86,189.43	\$48,930.42	















04/08/2015



04/08/2015