

COUNCIL OF THE COUNTY OF MAUI

**PARKS, RECREATION, ENERGY, AND  
LEGAL AFFAIRS COMMITTEE**

December 21, 2018

**Committee  
Report No. \_\_\_\_\_**

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

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on December 10, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated November 2, 2018, the Department of the Corporation Counsel requested consideration of the possible settlement of Mollie M. Klingman v. The County of Maui, et al., Civil 16-00399 ACK-RLP. Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF MOLLIE M. KLINGMAN v. THE COUNTY OF MAUI, ET AL., CIVIL NO. 16-00399 ACK-RLP." The purpose of the proposed resolution is to authorize the Department to settle the case. The First Amended Complaint alleges gender discrimination and retaliatory acts and practices by the County's Department of Police against Plaintiff Mollie Klingman.

Your Committee notes it previously reported on this matter through Committee Report 18-78, which recommended that a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF MOLLIE M. KLINGMAN v. THE COUNTY OF MAUI ET AL., CIVIL NO. 16-00399 ACK-RLP," be adopted. At its meeting of April 20, 2018, the Council adopted the recommendation in Committee Report 18-78 (Resolution 18-78).

Your Committee further notes it previously reported on this matter through Committee Report 18-91, which recommended that a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF MOLLIE M. KLINGMAN v. THE COUNTY OF MAUI ET AL., CIVIL NO. 16-00399 ACK-RLP," be adopted. At its meeting of June 1, 2018, the Council adopted the recommendation in Committee Report 18-91 (Resolution 18-101).

COUNCIL OF THE COUNTY OF MAUI

**PARKS, RECREATION, ENERGY, AND  
LEGAL AFFAIRS COMMITTEE**

Page 2

**Committee  
Report No. \_\_\_\_\_**

Your Committee also notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of \$7,500.

A Deputy Corporation Counsel said the case is set for trial on January 23, 2019. She requested the opportunity to convene an executive meeting to explore settlement prior to trial. The Corporation Counsel assured your Committee the case will be ready to be tried in the event it does not settle.

Your Committee notes the Deputy previously informed your Committee the only issue in the case is the non-promotion of Ms. Klingman, who was formerly a Captain with the Department of Police.

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

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Guzman, Vice-Chair King, and members Atay, Carroll, Crivello, Hokama, Sugimura, and White voted "aye." Committee member Cochran was excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating a nonsubstantive revision.

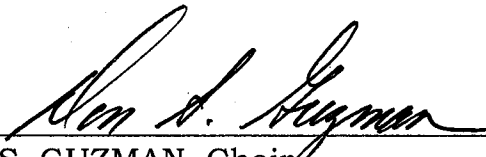
Your Parks, Recreation, Energy, and Legal Affairs Committee **RECOMMENDS** that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF MOLLIE M. KLINGMAN v. THE COUNTY OF MAUI, ET AL., CIVIL NO. 16-00399 ACK-RLP," be **ADOPTED**.

COUNCIL OF THE COUNTY OF MAUI  
**PARKS, RECREATION, ENERGY, AND  
LEGAL AFFAIRS COMMITTEE**

Page 3

Committee  
Report No. \_\_\_\_\_

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

  
\_\_\_\_\_  
DON S. GUZMAN, Chair

prl:cr:18001(35)ac:cmn

# Resolution

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

AUTHORIZING SETTLEMENT OF  
MOLLIE M. KLINGMAN v. THE COUNTY OF MAUI, ET AL.,  
CIVIL NO. 16-00399 ACK-RLP

WHEREAS, Plaintiff Mollie M. Klingman filed a lawsuit in the United States District Court for the District of Hawaii on July 20, 2016, Civil No. 16-00399 ACK-RLP, against the County of Maui, that alleged gender discrimination and emotional distress; and

WHEREAS, the County of Maui filed a Motion to Dismiss Plaintiff's Complaint on August 25, 2016; and

WHEREAS, the County of Maui's Motion to Dismiss Plaintiff's Complaint was granted on November 28, 2016; and

WHEREAS, the Court allowed Plaintiff to file a First Amended Complaint, which was filed on December 12, 2016; and

WHEREAS, the First Amended Complaint added some clarification to Plaintiff's claims while eliminating the common law emotional distress claims; and

WHEREAS, the County of Maui filed its Answer to the First Amended Complaint on December 27, 2016; and

**Resolution No. \_\_\_\_\_**

WHEREAS, by Resolutions 18-78 and 18-101, the Council previously authorized settlement of the case; 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 the 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

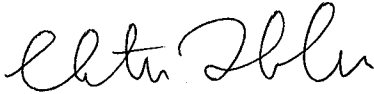
2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

**Resolution No. \_\_\_\_\_**

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 Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM  
AND LEGALITY:



---

CHRISTIE TRENHOLME  
Deputy Corporation Counsel  
County of Maui