

COUNCIL OF THE COUNTY OF MAUI

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

April 20, 2018

**Committee
Report No. 18-78**

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 April 6, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated March 22, 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," along with a copy of the First Amended Complaint. The purpose of the proposed resolution is to authorize the Department to settle the case. The First Amended Complaint alleges discrimination by the County's Department of Police against Plaintiff Mollie Klingman based on her sex, and other unlawful employment practices.

Your Committee 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 provided a brief overview of the case. The Deputy said the only issue in the case is the non-promotion of Ms. Klingman, who was formerly a Captain with the Department of Police. The Deputy said the case is set for trial on June 5, 2018, with mediation scheduled on April 10, 2018.

Because the case involves ongoing litigation, the Deputy requested the opportunity to convene an executive meeting.

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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 6-0 to recommend adoption of the proposed resolution. Committee Chair Guzman and members Atay, Carroll, Hokama, Sugimura, and White voted "aye." Committee Vice-Chair King and members Cochran and Crivello were excused.

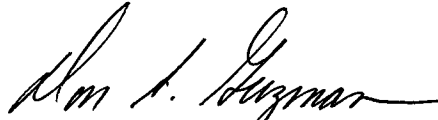
Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF MOLLIE M. KLINGMAN v. THE COUNTY OF MAUI ET AL., CIVIL NO. 16-00399 ACK-RLP," be ADOPTED.

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



DON S. GUZMAN, Chair

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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, alleging 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 emotional distress claims; and

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

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and

Resolution No. _____

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

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

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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:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui