

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

October 6, 2017

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 September 5, 2017, and September 19, 2017, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated August 29, 2017, the Department of the Corporation Counsel requested consideration of the possible settlement of the County of Maui's Claim II038632 against Island Insurance Company, Limited. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF THE COUNTY OF MAUI'S CLAIM NO. II038632 AGAINST ISLAND INSURANCE COMPANY, LIMITED," and a summary of damages. The purpose of the proposed resolution is to authorize the Department to settle the claim for \$183,767.84.

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.

According to the proposed resolution, the County's claim against Island Insurance Company, Limited arose from damage to the roof which in turn caused damages to the Department of Finance, Division of Motor Vehicles & Licensing facility at Maui Mall, Kahului, Hawaii, on February 16, 2016, and March 8, 2016.

A Deputy Corporation Counsel provided a brief overview of the case. She said the two flood incidents at the facility occurred when there were large amounts of rain while the facility's roof was being repaired. The County asserted a claim against the roofing company, which left areas exposed, and Island Insurance Company, Limited is the roofing company's insurer.

COUNCIL OF THE COUNTY OF MAUI

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The damages include construction and repair costs, cleaning costs, rental costs at One Main Plaza, employee overtime, and items damaged in the floods. Mold costs of \$39,650.07 were not covered because the insurance policy excluded mold, and the cost of air-conditioning repair was also not covered. The total amount of the County's recovery from Island Insurance Company, Limited will be \$183,767.84.

Your Committee voted 5-0 to recommend adoption of the proposed resolution to authorize settlement of the claim. Committee Chair Guzman, Vice-Chair King, and members Atay, Hokama, and Sugimura voted "aye." Committee members Carroll, Cochran, Crivello, and White were excused.

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF THE COUNTY OF MAUI'S CLAIM NO. II038632 AGAINST ISLAND INSURANCE COMPANY, LIMITED," be ADOPTED.

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



DON S. GUZMAN, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF THE COUNTY OF MAUI'S
CLAIM NO. II038632 AGAINST ISLAND INSURANCE COMPANY, LIMITED

WHEREAS, the COUNTY OF MAUI filed Claim No. II038632 on March 3, 2016, against Island Insurance Company, Limited for damages caused to the Department of Motor Vehicle facility at Maui Mall, Kahului, Hawaii, on February 16, 2016 and March 8, 2016 as a result of roof damage; and

WHEREAS, the County of Maui and Island Insurance Company, Limited, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, have reached a proposed resolution of this claim 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 authorize settlement; now, therefore,

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

1. That it hereby approves settlement of Claim No. II038632 in the amount of ONE HUNDRED EIGHTY THREE THOUSAND SEVEN HUNDRED SIXTY SEVEN DOLLARS AND 84/100 (\$183,767.84) to be paid by Island Insurance Company, Limited to the County of Maui; and

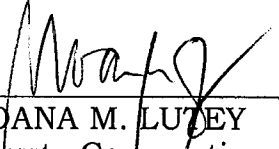
2. That it hereby authorizes the Mayor to execute the Settlement Agreement on behalf of the County of Maui for this Claim, under such terms

Resolution No. _____

and conditions as may be imposed, and agreed to, by the Corporation Counsel;
and

3. That certified copies of this resolution be transmitted to the Mayor,
the Director of Finance, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui
RISK 2016-0581