

Resolution

No. 22-102

AUTHORIZING SETTLEMENT OF
ROBERT TURNER V. WAIHAWI GULCH LAND COMPANY LLC, ET AL.,
CIVIL 18-1-0244(1)

WHEREAS, Plaintiff Robert Turner filed a complaint in Second Circuit Court, State of Hawaii, on June 4, 2018, Civil 18-1-0244(1), against Waiahiwi Gulch Land Company LLC (“WGLC”), alleging personal injury from an incident involving a fallen eucalyptus tree that landed on his motor vehicle traveling on Pi’iholo Road, Makawao, Maui, Hawaii, on April 30, 2017; and

WHEREAS, Defendant WGLC filed a Third-Party Complaint on May 5, 2020, that added claims against the County of Maui as a Third-Party Defendant; and

WHEREAS, WGLC alleges the County of Maui owned and maintained Pi’iholo Road and was negligent in: (1) creating a drainage ditch on WGLC’s property to evacuate water off of Pi’iholo Road; and (2) cutting down trees near the subject tree, which compromised the stability of the subject tree, causing it to fall; and

WHEREAS, Defendant WGLC alleges the County of Maui trespassed on WGLC’s property when creating and maintaining the drainage ditch on their property without permission; and

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WHEREAS, Defendant WGLC alleges it is entitled to contribution from the County of Maui for its proportionate share of responsibility if Defendant WGLC is found liable; 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 for \$190,000; 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 approves settlement of Robert Turner v. Waiahiwi Gulch Land Company LLC, et al. in the amount of \$190,000;
2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement authority;

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3. That it authorizes the Director of Finance to satisfy settlement of this case, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement authority; and
4. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



GLEN R. PASCUAL
Deputy Corporation Counsel
County of Maui

LIT-6115