

# REQUEST FOR LEGAL SERVICES

**Date:** July 8, 2020

**From:** Mike Molina, Chair

Governance, Ethics, and Transparency Committee

TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Gary Murai, Esq.

**Subject:** SETTLEMENT AUTHORIZATION: COUNTY OF MAUI V. RICK MARKHAM, ET AL., CIVIL 17-1-0393(2) (GET-11(10))

**Background Data:** Please submit a revised resolution deleting "on June 23, 2020" in the third WHEREAS clause and first BE IT RESOLVED clause, and deleting "hereby" in the first three BE IT RESOLVED clauses.

**Work Requested:** ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [ ] OTHER:

Requestor's signature  Mike Molina  Mike Molina	<small>Digitally signed by Mike Molina DN: cn=Mike Molina, o=ou email=mike.molina@mauicounty.us, c=US Date: 2020.07.10 08:31:27 -1000</small>  Contact Person  <u>James Forrest, Legislative Attorney</u> (Telephone Extension: <u>7137</u> )
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☐ [ ] ROUTINE (WITHIN 15 WORKING DAYS)  
☐ [ ] PRIORITY (WITHIN 10 WORKING DAYS)

☐ [ ] RUSH (WITHIN 5 WORKING DAYS)  
☐ [ ] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): July 15, 2020

REASON: To meet posting deadline for the July 24, 2020 Council meeting.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>Brian Bilberry</u>	ASSIGNMENT NO. <u>Li 5730</u>	BY: <u>MAS</u>
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TO REQUESTOR: ☐ [ ] APPROVED ☐ [ ] DISAPPROVED ☒ [X] OTHER (SEE COMMENTS BELOW)  
☐ [ ] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

Revised and approved as requested

DEPARTMENT OF THE CORPORATION COUNSEL

Date 7/13/2020

By BAB/MAS

(Rev. 7/03)

get:ltr:011(10)acc01:jbf

Attachment

# Resolution

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

## AUTHORIZING SETTLEMENT OF COUNTY OF MAUI V. RICK MARKHAM, ET AL., CIVIL NO. 17-1-0393 (2)

WHEREAS, the COUNTY OF MAUI filed a lawsuit in the Second Circuit in the State of Hawaii on September 15, 2017, Case No. 17-1-0393 (2), against Rick Markham, claiming building code violations of his property located at 343 Hana Highway, Paia, Maui, Hawaii; 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 Governance, Ethics, and Transparency 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:

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

1. That it approves settlement of this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and
2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case; and
3. That it authorizes the Director of Finance to satisfy said settlement of this case; 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:

  
\_\_\_\_\_  
BRIAN A. BILBERRY  
Deputy Corporation Counsel  
County of Maui  
Lit 5730