

COUNCIL OF THE COUNTY OF MAUI

# GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

July 24, 2020

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

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

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on June 2, 2020, and July 7, 2020, makes reference to County Communication 19-29, from Council Chair Kelly T. King, relating to litigation matters.

By correspondence dated June 19, 2020, the Department of the Corporation Counsel transmitted a proposed resolution entitled "AUTHORIZING SETTLEMENT OF COUNTY OF MAUI V. RICK MARKHAM, ET AL., CIVIL NO. 17-1-0393(2)."

The purpose of the proposed resolution is to authorize settlement of County of Maui v. Rick Markham, et al., Civil 17-1-0393(2).

Your Committee notes the complaint seeks declaratory and injunctive relief related to alleged violations of the Building Code for the construction of an unpermitted dwelling and deck in Paia, Maui, Hawaii.

At both meetings, Mr. Markham, his associates, and his attorney testified in support of a settlement to lower the amount of fines for the alleged violations.

Your Committee was briefed on the status of the case in regular session by a Deputy Corporation Counsel at both meetings.

At both meetings, your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel in accordance with Section 92-5(a)(4), Hawaii Revised Statutes.

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Following the executive meetings, your Committee reconvened in regular session.

At its meeting of July 7, 2020, based on the information received and the recommendation of the Department, your Committee voted 8-0 to recommend adoption of the revised proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee member Hokama 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 nonsubstantive revisions.

Your Governance, Ethics, and Transparency Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF COUNTY OF MAUI V. RICK MARKHAM, ET AL., CIVIL NO. 17-1-0393(2)," be ADOPTED.

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

  
\_\_\_\_\_  
MICHAEL J. MOLINA, Chair

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# 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:



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