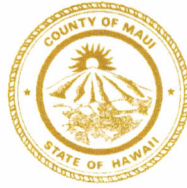


**MICHAEL P. VICTORINO**  
Mayor

**MOANA M. LUTEY**  
Corporation Counsel

**RICHELLE M. THOMSON**  
First Deputy

**LYDIA A. TODA**  
Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

September 25, 2020

MEMO TO: Mike Molina, Chair  
Governance, Ethics, and Transparency Committee

FROM: Iwalani Mountcastle Gasmen, Deputy Corporation Counsel 7

SUBJECT: Litigation Matter – Case Status GET-11;  
*Theresa Ann Cox v. County of Maui, et al.*;  
HCRC NO. RE-M-1165; HUD NO. 09-18-2683-8

Our Department respectfully requests the opportunity to discuss with the Committee the litigation of the above-referenced case, update on the status of the litigation, and to further discuss settlement options with regard to the above-reference lawsuit. We would like this matter heard at the currently scheduled October 6, 2020 committee meeting.

A copy of Plaintiff Theresa Ann Cox's Amended Complaint filed on July 17, 2020 with the Hawai'i Civil Rights Commission, and a copy of the Resolution Authorizing Settlement of Theresa Ann Cox v. County of Maui, et al., HCRC NO. RE-M-1165 and HUD NO. 09-18-2683-8, are attached.

It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

Should you have any questions or concerns, please do not hesitate to contact us. Thank you for your anticipated assistance in this matter.

cc: Lori Tsuhako, Department of Housing and Human Concerns

# Resolution

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

AUTHORIZING SETTLEMENT OF  
THERESA ANN COX v. COUNTY OF MAUI, ET AL.  
HCRC NO. RE-M-1165; HUD NO. 09-18-2683-8

WHEREAS, Plaintiff Theresa Ann Cox filed dual amended lawsuits with the Hawaii Civil Rights Commission on July 17, 2020, HCRC NO. RE-M-1165, and with the U.S. Department of Housing and Urban Development, HUD NO. 09-18-2683-8, against the County of Maui, claiming retaliation and discrimination based on race, sex, and disability; 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

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

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:

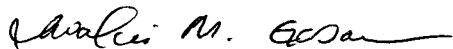
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and

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 of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of the Department of Housing and Human Concerns, and the Corporation Counsel.

APPROVED AS TO FORM  
AND LEGALITY:



---

IWALANI MOUNTCASTLE GASMEN  
Deputy Corporation Counsel  
County of Maui

# CHARGE OF REAL PROPERTY TRANSACTION DISCRIMINATION

HUD number 09-18-2683-8

State Agency: HAWAII CIVIL RIGHTS COMMISSION

Charge number RE-M-1165 (Amended)

Complainant's name: Theresa Ann Cox

street address 333 Molokai Akau St.

home phone (808) 940-5335

city, state, zip code Kahului, HI 96732

county Maui

Named is the owner, real estate broker or salesman, bank or other lender, legal representative, partnership, receiver, trust, trustee, trustee in bankruptcy, government entity, or agency who discriminated against me (if more than two, list in space below this box.):

1) Name Ka Hale A Ke Ola Homeless Resource Centers, Inc.

street address 670 Waiale Road

phone (808) 242-7600

city, state, zip code Wailuku HI 96793

county Maui

2) Name Hale Makana O'Waiale LLC

street address 195 Waimaluhia Ln

phone (808) 249-0700

city, state, zip code Wailuku HI 96793

county Maui

Cause of discrimination based on (Check appropriate box(es)):

☒ race ☐ color ☒ sex ☐ religion ☐ age ☐ sexual orientation ☒ retaliation  
☐ marital status ☐ familial status ☒ disability ☐ HIV infection ☐ ancestry/national origin

Date of most recent or continuing discrimination (month, day, year): January 2, 2019

The particulars are (if additional space is needed, continue on page 2):

Rp3: Joelvonne Kamaka

Rp4: County of Maui

c/o Hale Makana O'Waiale

c/o Department of Housing and Human Concerns

195 Waimaluhia Ln

2200 Main Street, Suite 546

Wailuku, HI 96793

Wailuku, HI 96793

(808) 249-0700

(808) 270-7805

Particulars of Complaint:

- I. I, Complainant, Theresa Ann Cox, resided at 10 Ipu Wai Ln, #101, Lahaina, HI 96761 ("subject property") from August 23, 2013 to January 2, 2019. Subject property is a 30-unit affordable housing rental project.

Page 1 of 6

☒ I want this charge filed with both the Department of Housing and Urban Development (HUD) and the State of Hawaii. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures

I declare under penalty of perjury that the foregoing and any attached pages are true and correct

Theresa A Cox

signature of complainant Theresa Ann Cox

Jul 17, 2020  
date

Particulars Continued:

- II. Respondent County of Maui ("Respondent County") is the fee owner of the subject property. While residing at the subject property, Complainant received a Section 8 Tenant Based Assistance Housing Choice Voucher, administered by Respondent County.
- III. Respondent Ka Hale A Ke Ola Homeless Resource Centers, Inc. ("Respondent KHA KO") leases the subject property. Respondent KHA KO received federal funds from the Department of Housing Urban Development ("HUD") for 20 units which were designated as HOME Program Affordable units, making the entire project subject to HUD program requirements.
- IV. Respondent Hale Makana O'Waiale LLC, ("Respondent Hale Makana") managed subject property for Respondent KHA KO.
- V. Respondent Joelvonne Kamaka ("Respondent Kamaka") is the Hale Makana O'Waiale Leasing Director for the subject property.
- VI. I allege that the Respondents subjected me to housing discrimination by terminating my tenancy, imposing unequal terms and conditions of residency, failing to take corrective action to end a hostile environment and harassment from tenants of subject property, and retaliating against me because of my race, sex, disability, and for opposing discriminatory practices between January 23, 2017 to January 2, 2019. If proven, the allegations would violate Hawai'i Revised Statutes, §§ 515- 3(1) & (2) and 515-16(1) & (6); and Sec. 804(a) & (b) and 818 of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.
- VII. My beliefs are based on the following allegations.
  - A. During my tenancy at the subject property, Respondents unequally enforced the terms and conditions of my lease agreement by failing to take adequate corrective action regarding the race, sex and disability-based harassment against me by tenants at subject property, creating a hostile environment.
    1. I am a Caucasian female and have a disability. Respondents were aware that I have a disability as documented in my recertifications. Respondents were also aware that I was a recipient of a Section 8 voucher at the subject property.

Complainant's Initials

*tac*

Date

Jul 17, 2020

Date Filed: **JUL 17 2020**

RC:tsp



Particulars Continued:

2. On or about January 23, 2017, I confronted tenant Patrick Vasquez because he was smoking in front of my unit. After I asked Patrick Vasquez to smoke further from my unit, Patrick Vasquez yelled race and sex-based derogatory and offensive statements at me. Patrick Vasquez also made threats of physical violence against me. These included "Shut the fuck up," "Shut up, you cunt," and "haoles don't respect locals." Lars Johnson, another tenant, joined Patrick and yelled disability-based offensive comments at me, calling me a "drunk, liar and bi-polar." I reported the incidents to Respondents KHAKO, Hale Makana, and Kamaka. Police responded. Respondents KHAKO, Hale Makana and Kamaka did not take reasonable corrective action to end the harassment.
3. On or about June 2017 and on other occasions, I notified Respondents KHAKO and Hale Makana that Patrick Vasquez took pictures of me while I was inside my home and that he was peering into my window during the early hours of the morning.
4. On or about October 31, 2017, Patrick Vasquez started his moped outside of my window, causing exhaust fumes and excessive noise to enter my unit. I reported the house rule violation to Respondent Hale Makana. When Respondent Hale Makana asked Patrick Vasquez to move his moped to the parking lot, Patrick Vasquez again yelled race (haole), and disability-based (bi-polar) derogatory and offensive statements at me and made threats of physical violence against me. Respondent Hale Makana witnessed the harassment, but took inadequate corrective action. Police responded and instructed Patrick Vasquez to leave the property for the day, but when I returned to my unit later in the day, I saw Patrick Vasquez taking pictures of my unit. I called the police who instructed me to drive to the subject property's Operations Office to await police arrival. Respondent Hale Makana ignored the incident despite the presence of police in front of the subject property's Operations Office.
5. In response to the October 31, 2017 incident, Respondents Hale Makana and Kamaka sent a written notice to me informing that my tenancy may be terminated due to a house rule noise violation.

Complainant's Initials

*tac*

Date

Jul 17, 2020

Date Filed:

JUL 17 2020

RC:tsp

Particulars Continued:

6. On or about November 2, 2017, I filed a temporary restraining order against Patrick Vasquez and delivered a copy to Respondent KHAKO's Operations Manager.
  7. On or about November 20, 2017, the District Court of the Second Circuit within the State of Hawai'i granted the Injunction Against Harassment filed by me against Patrick Vasquez for three years specifying that as long as myself and Patrick Vasquez resided in the same residential complex, Patrick Vasquez may enter the common areas of that residential complex, but that he should not intentionally be within 10 feet of me at any time. I later hand-delivered this order to Respondents' staff.
  8. On or about December 2, 2017, I observed Patrick Vasquez measuring and marking with spray paint a 10-foot radius around my unit. He was also taking video of himself while doing this. Patrick Vasquez was accompanied by a male in an Operations staff uniform, however, I had not seen him on the property before. I felt scared and intimidated by Patrick Vasquez's actions, and felt that there was nothing I could do because Patrick Vasquez appeared to be supported by an Operations staff person.
  9. On or about July 2018, Patrick Vasquez began parking his vehicle in the stall directly adjacent to my stall even though the House Rules stated that each tenant would be issued only one assigned parking stall. The adjacent parking stall was assigned to another tenant. Patrick Vasquez's vehicle had a "Certified Bitch" decal that I was forced to see each time I went to my car.
  10. Between 2017 and 2018, I made multiple requests to Respondents KHAKO, Hale Makana and Kamaka to transfer to another unit on subject property because of the conflict, harassment and my fear of Patrick Vasquez. On or about 06/21/2017, I requested that Respondents move Patrick Vasquez to another unit. Despite these requests, Respondents failed to transfer me or Patrick Vasquez to another unit.
- B. Respondents retaliated against me and interfered with my fair housing rights by not renewing my lease and proceeding with summary possession (eviction) because I opposed the unequal enforcement of the terms and conditions of my lease agreement. The following are the most significant examples of Respondents' discriminatory practices.

Complainant's Initials

*tac*

Date

Jul 17, 2020

Date Filed:

JUL 17 2020

RC:tsp

Particulars Continued:

1. On or about December 4, 2017, I received a Notice of Non-Renewal of Lease, which generally cited house rule violations, but provided no further explanation or specificity.
  2. On or about June 5, 2018, Respondent Kamaka sent me a letter informing that my month-to-month rental agreement expired on December 22, 2017 and that my "lease will not be renewed; due to your continued House Rule violations and non-payment of your rent." I was advised to vacate my unit no later than 5:00 pm.
  3. On or about June 8, 2018, I went to Respondent KHAKO's shelter office and pleaded with Respondent KHAKO's Operation Manager for protection because Patrick Vasquez was violating the Restraining Order. I was in fear. I gave another copy of the Restraining Order to Respondents and asked to use their office phone to call the police. Respondent's Operation Manager notified me that I was not allowed in the "shelter" office and not allowed to use their office phone.
  4. On or about August 2, 2018, Respondent filed for summary possession in the District Court of the Second Circuit on Maui to evict me from the subject property. Respondents alleged that I broke the month-to-month rental agreement and had unpaid rent.
  5. On or about January 2, 2019, while the eviction proceeding was still pending in District Court, I moved out of the subject property. Patrick Vasquez remained a resident of the subject property, and I became homeless. I lived out of my vehicle until I was able to find a new residence.
  6. I believe that Respondents retaliated against me because I opposed such discriminatory practices.
- C. Respondent County, owner of the subject property, had knowledge of the harassment at the subject property and failed to investigate and take corrective action to end the harassment.

Complainant's Initials

*tal*

Date

Jul 17, 2020

Date Filed:

**JUL 17 2020**

RC:tsp



HCRC No. RE-M-1165 (Amended)

Page 6 of 6

HUD No. 09-18-2683-8

Particulars Continued:

1. In a letter dated June 25, 2018 to the County of Maui, Department of Housing and Human Concerns, I requested a reasonable accommodation for my disability. I also notified Respondent County that I was discriminated against on the basis of sex and race by a co-tenant and that "I cannot safely stay in these units without undue mental and emotional anguish" and that I had a complaint pending with the Hawai'i Civil Rights Commission.
2. In a letter dated July 11, 2018, my medical provider informed Respondent County that I had an Injunction Against Harassment issued against Patrick Vasquez and that he caused a hostile environment that required me to find alternative housing that was secure, private and safe.
3. Despite notice of harassment allegations, Respondent County did not conduct an investigation and/or take corrective action to end the harassment.

Complainant's Initials

*tac*

Date

Jul 17, 2020

Date Filed:

JUL 17 2020

RC:tsp