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## Developer claims county balked at project

by Lester Chang - THE GARDEN ISLAND

Kaua'i County has reached a settlement agreement in a lawsuit where Koloa Marketplace claimed it automatically had the right to develop an 8-acre retail shopping center in Koloa when the county failed to process its application in a timely manner in 2006.

Gary Grimmer, a Honolulu attorney representing Koloa Marketplace, said yesterday he was not authorized by his client to disclose the terms of the settlement.

County Attorney Matthew Pyun Sr. could not be reached for comment early yesterday afternoon.

The case marks the first time in recent history a developer has claimed authority to build a project based on claims the county failed to process the paperwork for its project in a timely manner.

Meeting Wednesday, the council deferred action on a request by the county administration to set aside up to \$75,000 to hire outside counsel to represent the county in the lawsuit.

The council is scheduled to take up the matter again at a meeting on Oct. 17.

The council will have to appropriate funds, if needed, to cover the terms of the settlement.

In its lawsuit filed in 5th Circuit Court last October, Koloa Marketplace contended Planning Director Ian Costa had 60 days from Dec., 28, 2005, when the application process for permits was completed, to issue a report for or against the project.

The requirement is part of the county's comprehensive zoning ordinance, the lawsuit states.

The lawsuit notes the county's comprehensive zoning ordinance required Costa to issue a report for or against the project by Feb. 26, 2006 — 60 days after the county had reviewed the application on Dec. 28, 2005.

That day came and went with no report from Costa, the lawsuit states.

With that situation being the case, the project should have been automatically approved, Koloa Marketplace attorneys said in the lawsuit.

Costa was not available for comment.

The county Planning Commission finally took action on Sept. 26, 2006 and denied the project.

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