

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

March 16, 2001

**Committee  
Report No.**

01-48

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

Chair and Members:

Your Committee of the Whole, having met on February 27, 2001, makes reference to County Communication No. 99-18, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee notes that County Communication No. 99-18 was referred to the prior Council's Committee of the Whole at the Council meeting of January 11, 1999.

At its meeting of November 14, 2000, the Committee recommended that County Communication No. 99-18 be referred to the Council Chair for the term beginning January 2, 2001, for a recommendation as to referral or other disposition.

At its meeting of January 12, 2001, the Council referred County Communication No. 99-18 to your Committee of the Whole (County Communication No. 01-15).

By letter dated February 6, 2001, Deputy Corporation Counsel Robert D. Rivera requested the opportunity to discuss Norman and Patricia Diego vs. James Scott Cumming, et al., Civil No. 99-0764(3), and Rachelle D. Diego, etc. vs. James Scott Cumming, et al., Civil No. 00-1-0005(3) in executive session for the purpose of settlement authorization. A copy of the Complaint in the aforementioned case was attached to Mr. Rivera's letter. Also attached to the aforementioned letter was a proposed resolution entitled "AUTHORIZING SETTLEMENT OF THE CLAIM OF NORMAN AND PATRICIA DIEGO VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 99-0764 (3), AND RACHELLE D. DIEGO, ETC. VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 00-1-0005 (3) ARISING FROM AN ALLEGED FATAL MOTOR-VEHICLE/MOTORCYCLE ACCIDENT ON NOVEMBER 11, 1998". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claims.

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

March 16, 2001  
Page 2

**Committee**  
**Report No.**      01-48

Your Committee notes that the claims allege negligence on the part of the County.

By letter dated February 14, 2001, Deputy Corporation Counsel Robert D. Rivera transmitted a revised proposed resolution entitled "AUTHORIZING SETTLEMENT OF THE CLAIM OF NORMAN AND PATRICIA DIEGO VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 99-0764 (3), AND RACHELLE D. DIEGO, ETC. VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 00-1-0005 (3) ARISING FROM AN ALLEGED FATAL MOTOR-VEHICLE/MOTORCYCLE ACCIDENT ON NOVEMBER 11, 1999". The revised proposed resolution corrected the alleged year of the accident from 1998 to 1999 within the title and body of the resolution.

At its meeting, your Committee met with the Director of Public Works and Waste Management and two Deputy Corporation Counsel.

Your Committee was briefly apprised of the Plaintiffs' claims and voted to convene in executive session for the purpose of consulting with legal counsel on liability issues in the matter, pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes.

Your Committee met in executive session with the Director of Public Works and Waste Management and two Deputy Corporation Counsel.

Following the executive session, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend approval of a proposed settlement of the claim under the terms proposed in executive session.

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

March 16, 2001  
Page 3

**Committee**  
**Report No.** 01-48

Your Committee of the Whole RECOMMENDS that Resolution No. \_\_\_\_\_, as revised herein and attached hereto, entitled "AUTHORIZING SETTLEMENT OF THE CLAIM OF NORMAN AND PATRICIA DIEGO VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 99-0764 (3), AND RACHELLE D. DIEGO, ETC. VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 00-1-0005 (3) ARISING FROM AN ALLEGED FATAL MOTOR-VEHICLE/MOTORCYCLE ACCIDENT ON NOVEMBER 11, 1999", be ADOPTED.

Adoption of this report is respectfully requested.

cow:cr:0111(5)aa:rkk

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

March 16, 2001  
Page 4

Committee  
Report No. 01-48

---

**DAIN P. KANE** **Chair**

---

**PATRICK S. KAWANO** **Member**

---

**G. RIKI HOKAMA** **Vice-Chair**

---

**MICHAEL J. MOLINA** **Member**

---

**ALAN M. ARAKAWA** **Member**

---

**WAYNE K. NISHIKI** **Member**

---

**ROBERT CARROLL** **Member**

---

**CHARMAINE TAVARES** **Member**

---

**JO ANNE JOHNSON** **Member**