

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

May 18, 2001

**Committee
Report No.**

01-80

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 May 1, 2001, makes reference to County Communication No. 01-90, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of a letter dated April 23, 2001, from Deputy Corporation Counsel Victoria J. Takayesu, requesting consideration of the possible settlement of David Lee Gardner, et al. vs. Dean Rickard, et al., Civil No. CV00-00508 DAE BMK. Attached to the request was a copy of the complaint and a proposed resolution entitled, "APPROVING A PROPOSED SETTLEMENT OF CIVIL NO. CV00-00508 DAE BMK DAVID LEE GARDNER, KAREN GARDNER. VS. DEAN RICKARD, ET AL.". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the claim.

Your Committee notes that the claim alleges violation of civil rights, false arrest and imprisonment, malicious prosecution, intentional infliction of emotional distress, negligent infliction of emotional distress, liability of governmental defendants, and loss of consortium.

At its meeting, your Committee met with an Assistant Chief of Police, the Prosecuting Attorney, the Corporation Counsel, and two Deputy Corporation Counsel.

There being no public testimony, Deputy Corporation Counsel Victoria J. Takayesu provided a brief overview of the case and requested the opportunity to discuss the matter in an executive meeting.

Your Committee voted to convene an executive meeting for the purpose of consulting with legal counsel on liability issues in the matter, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

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At its executive meeting, your Committee met with an Assistant Chief of Police, the Prosecuting Attorney, and two Deputy Corporation Counsel. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee agreed to revise the proposed resolution to include the settlement amount of \$20,000 and voted on the matter.

Following the executive meeting, your Committee reconvened in regular session and announced the result of the vote taken in the executive meeting. Your Committee announced that it had agreed to recommend adoption of a revised proposed resolution to approve the settlement of the matter under the terms proposed in the executive meeting.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality, incorporating your Committee's suggested revisions and making two nonsubstantive typographical revisions.

Your Committee of the Whole **RECOMMENDS** that Resolution No. _____, as revised herein and attached hereto, entitled "APPROVING A PROPOSED SETTLEMENT OF CIVIL NO. CV00-00508 DAE BMK DAVID LEE GARDNER, KAREN GARDNER VS. DEAN RICKARD, ET AL." be **ADOPTED**.

Adoption of this report is respectfully requested.

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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**

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